JOURNAL

OF THE

SOCIETY OF COMPARATIVE LEGISLATION.

EDITED FOR THE SOCIETY BY

JOHN MACDONELL, Esq., C.B., LL.D.

AND

EDWARD MANSON, Esq.

"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ὀφθῃ καὶ τὸ χρήσιμον."—Arist. *Pol.* II. 1.

New Series. 1902. No. 2.

LONDON:

JOHN MURRAY, ALBEMARLE STREET.

1902.

[*All rights reserved.*]

PRINTED BY
HAZELL, WATSON AND VINEY, LD.
LONDON AND AYLESBURY.

CONTENTS OF No. 2, 1902.

PAGES

1. COUNCIL AND EXECUTIVE COMMITTEE OF THE SOCIETY . . 105–107

2. PROFESSOR F. DE MARTENS: PORTRAIT AND SKETCH . . 109
   BY THOMAS BARCLAY, ESQ.

3. UNITED STATES UNIFORM LAWS COMMISSION . . . 110–113
   BY M. D. CHALMERS, ESQ., C.S.I.

4. THE ADMISSION OF ALIENS 114–127
   BY EDWARD MANSON, ESQ.

5. WHAT IS A STATE OF WAR IN LAW? 128–134
   BY G. G. PHILLIMORE, ESQ.

6. PRÆDIAL LARCENY IN JAMAICA 135–148
   BY S. LESLIE THORNTON, ESQ.

7. NOTES ON A PROPOSED GENERAL TREATY OF ARBITRATION . 149–155
   BY MONTAGUE CRACKANTHORPE, ESQ., K.C.

8. INTERNATIONAL MARITIME COMMITTEE—HAMBURG CONFERENCE 156–163
   BY T. G. CARVER, ESQ., K.C.

9. LAND TENURE IN NORTHERN NIGERIA 164–167
   BY HIS HONOUR CHIEF JUSTICE GOLLAN.

10. STATUS 168–171
    BY JULIUS HIRSCHFELD, ESQ.

PAGES

11. REVIEW OF LEGISLATION, 1901 173–360

INTRODUCTION (p. 176).

FOREIGN:

PAGE

1. DENMARK 182
2. EGYPT 183
3. FRANCE 185
4. GERMANY 187
5. ITALY 195
6. SWEDEN 204
7. UNITED STATES OF AMERICA: STATE LEGISLATION . . 206

BRITISH EMPIRE:

I. UNITED KINGDOM (p. 213); Isle of Man (p. 233); The Channel Islands: Jersey, 1900-1902 (p. 234).

II. BRITISH INDIA: 1. Acts of Governor-General in Council (p. 235); 2. Madras (p. 237); 3. Bombay (p. 237); 4. Lower Provinces of Bengal (p. 237); 5. North-Western Provinces and Oudh (p. 238); 6. Punjab (p. 239); 7. Burma (p. 239); 8. Regulations under 33 Vict., c. 3 (p. 239).

III. EASTERN COLONIES: 1. Ceylon (p. 240); 2. Straits Settlements (p. 242); 3. Mauritius (p. 244); 4. Hong-Kong (p. 246).

IV. AUSTRALASIA: 1. Commonwealth of Australia (p. 250); 2. New South Wales (p. 262); 3. Queensland (p. 267); 4. South Australia (p. 271); 5. Tasmania (p. 276); 6. Victoria (p. 279); 7. Western Australia (p. 285); 8. British New Guinea (p. 289); 9. Fiji (p. 290); 10. New Zealand (p. 290).

V. SOUTH AFRICA: 1. Cape Colony (p. 299); 2. Natal (p. 299); 3. Certain Proclamations (p. 304); 4. Transvaal (p. 305); 5. Orange River Colony (p. 308).

VI. WEST AFRICA: 1. Gambia (p. 309); 2. Gold Coast (p. 310); 3. Lagos (p. 311); 4. Sierra Leone (p. 312); 5. Southern Nigeria (p. 316); 6. Northern Nigeria (p. 318).

VII. SOUTH ATLANTIC: 1. Falkland Islands (p. 320).

VIII. NORTH AMERICAN COLONIES: 1. Dominion of Canada (p. 322); 2. British Columbia (p. 322); 3. Manitoba (p. 327); 4. New Brunswick (p. 327); 5. North-West Territories (p. 328); 6. Province of Ontario (p. 329); 7. Prince Edward Island (p. 335); 8. Province of Quebec (p. 335); 9. Newfoundland (p. 339).

IX. WEST INDIES: 1. The Bahamas (p. 341); 2. Barbados (p. 341); 3. Bermuda (p. 343); 4. British Guiana (p. 344); 5. British Honduras (p. 346); 6. Jamaica (p. 347); 7. Turk's and Caicos Islands (p. 349); 8. Trinidad and Tobago (p. 351); 9. Windward Islands: (i) Grenada (p. 353); (ii) St. Lucia (p.) 353; (iii) St. Vincent (p. 354); 10. Leeward Islands: (i) Antigua (p. 356); (ii) Dominica (p. 356); (iii) Montserrat (p. 356); (iv) St. Christopher and Nevis (p. 357); (v) Virgin Islands (p. 358).

X. MEDITERRANEAN COLONIES: 1. Cyprus (p. 358); 2. Gibraltar (p. 359); 3. Malta (p. 359).

12. INDEX TO REVIEW OF LEGISLATION 361–390

13. NOTES 391–395

THE SOCIETY OF COMPARATIVE LEGISLATION.

PRESIDENT:

THE RT. HON. THE EARL OF ROSEBERY, K.G., K.T.

CHAIRMAN OF THE EXECUTIVE COMMITTEE:

THE RT. HON. LORD DAVEY.

VICE-CHAIRMAN:

SIR COURTENAY ILBERT, K.C.S.I.

COUNCIL:

The Rt. Hon. Lord Alverstone, G.C.M.G., Lord Chief Justice of England.

Sir W. R. Anson, Bart., M.P., Warden of All Souls' College Oxford.

The Most Noble the Duke of Argyll, K.T., G.C.M.G.

The Rt. Hon. Lord Ashbourne, Lord Chancellor of Ireland.

The Rt. Hon. H. H. Asquith, K.C., M.P.

Thomas Barclay, Esq.

H. C. Beeton, Esq., Agent-General for British Columbia.

The Hon. E. Blake, K.C., M.P.

The Rt. Hon. James Bryce, M.P.

M. Lyon Caen, Membre de l'Institut.

The Rt. Hon. Earl Carrington, G.C.M.G

The Hon. Sir J. W. Carrington, C.M.G., D.C.L., LL.D., Chief Justice of Hong-Kong.

M. D. Chalmers, Esq., C.S.I., Parliamentary Counsel to the Treasury.

His Excellency the Hon. J. Choate, United States Ambassador at the Court of St. James's.

Arthur Cohen, Esq., K.C.

F. M. Corbet, Esq.

Baron de Courcel, formerly French Ambassador at the Court of St. James's.

H. Bertram Cox, Esq., C.B., Legal Assistant Under Secretary, Colonial Office.

Montague Crackanthorpe, Esq., K.C.

The Rt. Hon. Viscount Cross, G.C.B., G.C.S.I.

M. Dareste, Membre de l'Institut.

The Rt. Hon. Lord Davey.
W. E. Davidson, Esq., C.B., K.C., Legal Adviser to the Foreign Office.
The Rt. Hon. the Earl of Derby K.G., G.C.B.
A. V. Dicey, Esq., K.C., Vinerian Professor of English Law, Oxford.
Sir R. B. Finlay, K.C., Attorney-General.
C. J. Follett, Esq., C.B., Solicitor to the Commissioners of Customs.
The Rt. Hon. Sir Edward Fry, formerly Lord Justice of Appeal.
Sir James Garrick, K.C.M.G., formerly Agent-General for Queensland.
The Hon. Duncan Gillies, formerly Agent-General for Victoria.
The Rt. Hon. R. B. Haldane, Esq., K.C., M.P.
The Rt. Hon. the Earl of Halsbury, Lord High Chancellor of England.
The Hon. Sir Robert Herbert, G.C.B., formerly Permanent Under Secretary of State for the Colonies.
The Rt. Hon. Lord Hobhouse, K.C.S.I.
Professor T. E. Holland, K.C., Professor of International Law, Oxford.
Sir Courtenay Ilbert, K.C.S.I., Clerk to the House of Commons.
A. Taylor Innes, Esq.
The Rt. Hon. Lord James of Hereford.
Professor Jenks, Reader in English Law, University of Oxford.
The Hon. Mr. Justice Kennedy.
Courtney Kenny, Esq., LL.D.
The Rt. Hon. Viscount Knutsford, G.C.M.G.
His Excellency Dr. Koch, President of the Reichsbank, Berlin.
Sir Chandos Leigh, K.C.B., K.C., Counsel to the Speaker.
John M. Lely, Esq.
The Rt. Hon. Lord Lindley, Lord of Appeal.
The Rt. Hon. Lord Lingen, K.C.B.
Prof. Dr. von Liszt, Berlin.
John Macdonell, Esq., C.B., LL.D., Master of the Supreme Court.
Sir K. Muir Mackenzie, K.C.B., K.C., Permanent Secretary to the Lord High Chancellor.
Professor F. W. Maitland, LL.D., D.C.L., Downing Professor of Law, Cambridge.
The Rt. Hon. Lord Justice Mathew.
The Rt. Hon. the Earl of Morley, Chairman of Committees, House of Lords.
Sir Francis Mowatt, G.C.B., Permanent Secretary to the Treasury.
The Rt. Hon. Viscount Peel, late Speaker of the House of Commons.
Sir Westby Perceval, K.C.M.G., Agent-General for Tasmania.
T. D. Pigott, Esq., C.B., Controller of the Stationery Office.
Sir Frederick Pollock, Bart., Corpus Professor of Comparative Jurisprudence, Oxford.
T. Raleigh, Esq., C.S.I., Legal Member of the Council of the Viceroy of India.
The Rt. Hon. Lord Reay, G.C.S.I., formerly Governor of Bombay.
Sir Robert Reid, G.C.M.G., K.C., M.P.
The Rt. Hon. the Earl of Rosebery, K.G., K.T., *President.*
M. R. Saleilles, Professeur à la Faculté de Droit de Paris.
Ernest Schuster, Esq., LL.D., Munich.
Professor Dr. Sohm, Leipzig.
Whitley Stokes, Esq., C.S.I., formerly Legal Member of the Council of the Viceroy of India.

Sir Charles Tupper, Bart., G.C.M.G., formerly High Commissioner for Canada.
The Rt. Hon. Lord Welby, G.C.B.
Sir Raymond West, K.C.I.E.
Professor Westlake, K.C., Professor of International Law, Cambridge.
E. H. Whittuck, Esq.
The Rt. Hon. Sir Arthur Wilson, K.C.I.E.
H. F. Wilson, Esq., C.M.G., Secretary to the Orange River Colony.
The Hon. Mr. Justice Wright.
Sir Henry Wrixon, K.C.M.G.

EXECUTIVE COMMITTEE:

Thomas Barclay, Esq.
The Hon. E. Blake, K.C., M.P.
The Rt. Hon. James Bryce, M.P.
Mackenzie Dalzell Chalmers, Esq., C.S.I.
Arthur Cohen, Esq., K.C.
H. Bertram Cox, C.B., Esq.
Montague Crackanthorpe, Esq., K.C.
W. F. Craies, Esq.
Newton Crane, Esq.
The Rt. Hon. Lord Davey, *Chairman.*
W. E. Davidson, Esq., C.B., K.C.
Sir James Garrick, K.C.M.G.
Albert Gray, Esq.
The Rt. Hon. R. B. Haldane, Esq., K.C.
John Hunter, Esq.
Sir Courtenay Ilbert, K.C.S.I., *Vice-Chairman.*
The Rt. Hon. Lord James of Hereford.
John Macdonell, Esq., C.B., LL.D.
Sir Kenneth Muir Mackenzie, K.C.B., K.C.
Professor F. W. Maitland, LL.D., D.C.L.
The Rt. Hon. Lord Reay, G.C.S.I.
J. A. Simon, Esq.
Whitley Stokes, Esq., C.S.I.
Sir Charles Tupper, Bart., G.C.M.G.
The Rt. Hon. Lord Welby, G.C.B.
Sir Raymond West, K.C.I.E.
Professor Westlake, K.C.
H. F. Wilson, Esq., C.M.G.

HONORARY SECRETARY:

EDWARD MANSON, ESQ., 8, Old Square, Lincoln's Inn.

EDITORS OF THE JOURNAL:

JOHN MACDONELL, ESQ., C.B., LL.D.
EDWARD MANSON, ESQ.

PROFESSOR F. DE MARTENS.

[*Contributed by* THOMAS BARCLAY, ESQ.]

PROFESSOR F. DE MARTENS, whose portrait appears in the present number of the Journal, is well known in this country and America in connection with the Venezuela and the Mexico-American arbitrations, over which he presided; but he has other titles besides this to recognition beyond the frontiers of his country. As Professor of International Law at the University of St. Petersburg and Legal Adviser to the Russian Government, he took a leading part in the preparation of the famous Peace Conference, due to the initiative of his sovereign, and, as active delegate of his Government there, he contributed in no small degree to the success of that great gathering. Among his colleagues of the Institute of International Law Professor de Martens is a particular favourite. He rarely misses the annual meeting, and his observations are characterised by a juridical discrimination which, while Germanic in the subtlety of its distinctions, is French in clearness of enunciation. He speaks, besides his own language, English, French, and German with fluency and even relative elegance. His work on International Law has been translated into French in three volumes (Paris, 1887-8) and into German in two (Berlin, 1884-5). His *Recueil des Traités et Conventions conclus par la Russie avec les puissances étrangères*, which he began in 1874, contains many valuable notes borrowed from Russian official sources which would otherwise be inaccessible to the jurists of Western Europe. Professor F. de Martens was born in 1843 at Pernau, in Livonia.

Professor F. de Martens has just been singled out to receive the Nobel Peace Prize.

UNITED STATES UNIFORM LAWS COMMISSION.

[*Contributed by* M. D. CHALMERS, ESQ., C.S.I., *Parliamentary Counsel to the Treasury.*]

BY the kindness of Judge Brewster, of Connecticut, I was invited to be present this autumn at the annual Conference of "The State Board of Commissioners for promoting uniformity of legislation in the United States," which was held at Saratoga. A brief account of the constitution and proceedings of this Commission may be of interest to readers of this Journal.

Complexity of the Law in the United States: Its Causes.—Law in the United States is getting annually more complicated, and practical inconvenience increasingly results from the fact that the exposition of the law is entrusted to some forty Courts of last resort, and that the creation of new laws is entrusted to some forty independent State Legislatures. A lawyer in the United States who wishes to keep abreast of the current of judicial decision has to take in annually some fifty-eight volumes of reports. The decisions of the Courts of one State are not binding on the Courts of other States, but they have to be consulted and reckoned with. In commercial matters especially, the uncertainty arising from discrepant interpretations of the common law is particularly vexatious. To meet these evils, the Uniform State Laws Commission, as it is commonly called, has been constituted. Its method of procedure is as follows :—

How the Commission Works.—First of all, the Commission decides on a subject where it is desirable to secure uniformity of law throughout the States. A committee is then appointed to draw up a draft bill, and when the draft bill has been approved by the Commission, the members of the Commission take steps to get the draft introduced in the various State Legislatures, urging on each Legislature to pass the bill without amendment, so that each Legislature enacts for its own territory a law identical in terms with the law enacted in other States. It will be remembered that a similar procedure was adopted in 1849 by the States forming the German Zollverein with reference to the law of bills of exchange.

Constitution of the Commission.—The National Conference of Commissioners on Uniform Laws is made up of commissions created by different

States meeting in conference, and organising themselves into a national body, for the better accomplishment of the work for which its members were appointed by the States. The Commissioners, usually three from each State, are appointed under laws of the respective States creating them, usually for five years, with authority to confer with Commissioners of the other States, and recommend forms of bills or measures to bring about uniformity of law in the execution and proofs of deeds and wills, in the laws of bills and notes, marriage and divorce, and other subjects where such uniformity seems practicable and desirable. The officers of the National Conference consist of a president, vice-president, secretary, treasurer, and assistant secretary, elected annually.

Meetings and Procedure.—The annual meeting of the Commission is held at the place fixed upon for the annual meeting of the American Bar Association, and takes place two days before the Bar Association commences its proceedings. The Commissioners are, I believe, all of them members of the Bar Association, and the two bodies work in harmony, although technically they are independent of each other.

The proceedings of the Uniform State Laws Commission commenced with a presidential address, the president of this year being Mr. Amasa M. Eaton, of Providence, Rhode Island.

In a very interesting and thoughtful speech, the president reviewed the past work of the Commission, and suggested for consideration various lines of future activity. Then the various committees reported, and their reports were considered by the Commission as a whole. The discussions struck me as exceedingly business-like and good. The speeches were brief and very much to the point. They were all made by men who knew what they were talking about.

Some Subjects for Uniformity.—The draft bills already drawn up by the Commission include bills to establish a law uniform with the laws of other States, for the acknowledgment and execution of written instruments, the execution of wills, a uniform standard of weights and measures, the transfer of stock in corporations, migratory divorce, and divorce procedure and divorce from the bonds of marriage.

—— **Negotiable Instruments.**—The Committee on Commercial Law, presided over by Judge Brewster, reported the progress that had been made with the Negotiable Instruments Law, which has now been enacted in twenty-nine States of the Union. The draft of this measure was prepared by Mr. Crawford, of the New York Bar, under the supervision of the Commercial Law Committee. Many of its provisions are taken textually from the English Bills of Exchange Act, but its arrangement follows different lines, and some rules peculiar to the jurisprudence of the United States have been embodied in it. It is drafted with great ability, and in the States in which it has been brought into operation it has worked with almost unhoped-for smoothness.

—— **Sale of Goods.**—The Commercial Law Committee have now under-

taken to prepare a draft law relating to the sale of goods, and the drafting of this measure has been entrusted to Professor Williston, of Harvard University, a well-known expert in the law of sale.

—— **Standardising Legislation.**—Mr. Eaton, in his address, suggested a new sphere of activity for the Commission—namely, that in addition to procuring uniform laws throughout the States in certain subjects, endeavours should also be made to standardise legislation; that is to say, to secure uniformity in form as distinguished from substance; and to this end he endorsed the recommendations of Mr. Whitten, of New York, which are as follows:—

(1) Public Acts should be numbered consecutively, and citations should give number and section rather than page, title, or date.

(2) Arabic numbers should be used for chapter numbers, in place of the antiquated and obscure Roman numerals.

(3) For rapid reference, Act or chapter number should appear as part of each page heading, and each section should have a side heading or a marginal summary.

(4) Session law indexes of all States should be based on a uniform system of subject entries.

(5) Each volume of session laws should contain a tabulation of all changes in Statutes since the last edition of Revised Statutes. Massachusetts, Vermont, Michigan, and Wisconsin are the only States that do this.

(6) For citations, dates, and amounts, Arabic numerals should be used.

(7) Acts should be published separately as soon as signed, distributed to regular exchanges, and sold at a nominal price to individuals.

(8) Session laws should be well bound, printed on good durable paper, and exchanged freely for other publications, and sold at a moderate price.

(9) All bills should be drafted or revised by a permanent, specially trained official.

(10) A uniform statutory construction law should be prepared for adoption by all the States.

The Unification of Commercial Law.—The good work that is being done by the United States Uniform Laws Commission suggests further possible developments in the unification of commercial law. Commerce knows nothing of State boundaries. It is essentially international in its operations, and nothing hampers it more than diverse laws dealing with the same subject-matter. The conflict of laws is only less inimical to commerce than the conflict of States. Lord Mansfield expressed the ideal of mercantile and maritime law in *Luke* v. *Lyde* (1759), 2 Burr. at p. 887, when he said: "Maritime law is not the law of a particular country, but the general law of nations: 'non erit alia lex Romæ, alia Athenis, alia nunc, alia porthac; sed, et apud omnes gentes et omni tempore, una eademque lex obtinebit.'" Since those words were spoken, the law merchant and the law of the sea have tended rather towards divergence than uniformity. But now the tide seems beginning to turn again. The English Colonies readily adopt the

commercial legislation of the mother country. The Bills of Exchange Act of 1882 and the Sale of Goods Act of 1893 have been re-enacted for most of the British Colonies. The English-speaking people throughout the world base their laws on the common law, and the divergences in their mercantile laws are almost entirely confined to points of detail. Perhaps some day we may hope to see an International Uniform Laws Commission established, which will have for its work the smoothing away of these divergences. With a little give and take, its task should not be a very difficult one, and no one can doubt its utility.

THE ADMISSION OF ALIENS.

[*Contributed by* EDWARD MANSON, ESQ.]

The Community of Kinsmen.—Exclusiveness—jealousy of the stranger—was a marked characteristic of the primitive communities of the world. This exclusiveness grew out of the sense of kinship, of community of blood. All early societies which possessed any permanence or solidity were, as Sir Henry Maine has pointed out, descended, or assumed they were descended, from the same ancestor—his worship was the symbol of their unity. To this bond of blood they owed their permanence—their survival in the prehistoric struggle for existence. Kinship meant community of interest, coherence, organisation, co-operation. The horde—if it was indeed man's earliest social state—would, as compared with the patriarchal family or clan, be a mere rabble; and with that instinct of self-preservation which belongs to the primitive tribe no less than to the primitive man, and shapes its ends, the early community of kinsmen clung tenaciously to the blood bond as the vital principle of union, and recognised no alien as having any part or lot in its inheritance, unless he was incorporated into the clan by the simulated kinship of adoption. There was one code of ethics for the tribe, and another—a very different one—for the stranger, just as to-day we have one set of morals for municipal law and quite another for international law.

The Stranger in Early Greece.—In Greece in the heroic age a stranger had no right to protection even: he carried his life in his hand, and might be spoiled or slain with impunity, unless he was bound by the bond of guest-friendship with some member of the community into which he had intruded, in which case he came under the protection of Zeus the Hospitable. When that charming maiden, Nausicaa, is appealed to by the shipwrecked Odysseus, she bids him seat himself as a suppliant on the hearth of the king her father; and Athene hides the hero in a cloud as he goes through the city, as a protection against the insults of the rough seafaring Phæacians—slight touches, but indicating the defencelessness of the stranger in primitive times. It was not only that the stranger was presumably an enemy, but that it was nobody's business to protect or avenge him. The State, as the conservator of law and order, had not yet emerged out of the anarchy of family feuds.

Later on, of course, there was a change; and Pericles, in his great oration over those who had fallen in the war, claims for the Athenians, as matter of just pride, that they made their city κοινὴν, and did not practise towards strangers that narrow and illiberal policy of exclusion (ξενηλάσια) which the Lacedemonians did. It is well worthy of remark, indeed, that the two greatest nations of antiquity, the Athenians and the Romans, were not only tolerant, but generous, in their treatment of strangers.

The "Jus Hospitii" at Rome.—This liberality of treatment prevailed at Rome from primitive times, and is typified in the legend of Romulus' Asylum on the Seven Hills. Rome was a commercial city indebted for the commencement of its importance to international commerce, and with a liberality not less wise than honourable it granted, as Mommsen remarks, the privilege of settlement to every child of an unequal marriage, to every manumitted slave, to every stranger who, surrendering his rights in his native land, had emigrated to Rome. The result of this liberality was that there grew up around the old *gentes* a large population of mixed elements—remnants of conquered peoples, foreign traders and settlers, and emancipated slaves. The *gentes* took their place as an aristocracy of birth, with a monopoly of civic and religious privileges; the plebs had to content themselves with a subordinate position—the enjoyment of legal rights without civic honours.

Tribalism and Territorialism: The Racial Factor.—But inevitably as time went on "local contiguity" began to tell: the sense of a common country, for whose defence they were constantly taking the field; the heritage of common traditions, common trials, and common triumphs; and, finally, intermarriage, welded the two peoples into one—kinship was merged in nationality, *patres* and plebs in the *populus Romanus*. This process has been constantly repeating itself in history.

In mediæval Europe the transition from tribalism to territorial nationalism was made easy by feudalism. A man became a lord's subject by doing homage to him, and, this relation once constituted, the bond of blood became unimportant. It was replaced by fealty, the *jus sanguinis* by the *jus soli*, now nearly everywhere recognised as the theoretical or formal basis of sovereignty.

But note the persistence of ideas. Kinship in the narrow sense has passed away as a political bond; but race remains, and is still the most powerful factor in the making of nations—a factor compared with which the mere territorial bond is weak and artificial. And race! what is it but the old idea or sentiment of kinship "writ large," rooted in consanguinity, and retaining still not a little of the same old tribal jealousy of the stranger and the foreigner, as no one knows better than the Briton, if he interrogates his own consciousness!

The Alien in Early England.—Only by slow degrees has the alien won his way against racial prejudice in this or any other country. There was a

time in England when, by the laws of King Wihtraed and King Ine, if a stranger went out of a highway or journeyed through a wood out of the highway, and neither shouted nor blew a horn, he was to be accounted a thief either to be slain or redeemed. By the common law an alien was not only incapacitated from holding land or any public office, but even from exercising any civil rights. He could not, according to Littleton, bring any action, either real or personal.[1] His property on death was confiscated to the Crown, as it was generally on the Continent, under the Droit D'Aubaine. The very clause in Magna Charta (s. 41) which secured to foreign traders protection from personal violence and pecuniary exactions shows the risks to which they were then exposed. The Jew was worse off than most aliens, on account of his race and his religion—that he was tolerated at all was due to his serving as a sponge of usury, which the Crown could squeeze at pleasure—but, Jew or Christian, the alien met with scant sympathy, and had no security of tenure. He might be ordered to quit the realm at a moment's notice—and, in fact, aliens were so ordered on several occasions. The last was in Elizabeth's reign, in 1575. The Jews were finally banished by Edward I. in 1290. This right to deport aliens is inherent in all States (1 Phill., *Int. L.*, 3rd ed. 320[2]; Forsyth's *Cas. Const. L.*, p. 181), and the power is one which State policy may very well deem it wise to hold in reserve, in view of the fact that the alien owes allegiance to a foreign State.

The Brotherhood of Men: Christendom.—Strong, however, as the anti-alien spirit was in the ancient and mediæval world, it was encountered by another and a still more powerful influence, which has for many centuries been at work steadily sapping the foundations of racial and national exclusiveness. This influence was Christianity. The doctrine of the Fatherhood of God involved the doctrine of the brotherhood of men, and this brotherhood was not a merely spiritual relationship: the doctrine affirmed a real unity of race and origin. God had, as St. Paul said on Mars Hill, "made of one blood all nations of men." Thus the very bond of blood which had hitherto served to divide and estrange men was enlisted on the side of union and goodwill. Christendom was conceived of as a new temporal kingdom—was so, in fact; a kingdom within which the Christian nations formed a confederacy, with the Pope as liege lord at their head; an universal, amicable alliance against the common foe—the unbeliever. This kingdom had its own law—the Canon law; its organised hierarchy; its legates and its nuncios; its army of

[1] The proper Court for aliens who had come under the king's safe-conduct was the Court of Chancery (*Year-Books*, 13 Ed. III., f. 9, Pasch., pl. 5; Poll. & Mait., *Hist. Eng. Law*, 448-9). This was apparently an evolution from the old law that if any one wronged an ecclesiastic or a foreigner, the king or earl and the bishop of the people was to be in place of a kinsman (*Laws of Ed. & Guthrum*, 12).

[2] "It is a received maxim of international law that the Government of a State may prohibit the entrance of strangers into the country, and may therefore regulate the conditions under which they shall be allowed to remain in it, or may require and compel their departure from it."—Phill., *Int. L.*, 3rd ed. 320.

Crusaders ; its truce of God ; and in the vivid realisation of this higher unity the old distinctions of race and nationality faded into insignificance. Advancing civilisation and the growing intercourse of nations concurred with Christianity in breaking down the barriers of racial jealousy.

The Comity of Nations—"Salus Reipublicæ."—The way was thus prepared for the advent of that principle, known as the "Comity of Nations," which is the basis of international law—a principle begotten of the sense of brotherhood, and ratified and confirmed by reciprocity of interest. By this comity every civilised State tacitly recognises the law of another as *primâ facie* its own, unless such law is repugnant to its policy or prejudicial to its interests ; and, acting on this principle, each civilised State presumes the subject or citizen of another to be a friend, and not an enemy. It permits him to enter its territories, to make contracts and carry on business there, and to claim justice at the hands of its Courts, just as if he were indeed a citizen or subject. It carries its friendliness further, for it offers the alien naturalisation—the privileges of full citizenship—on the easiest terms, renouncing altogether the maxim *nemo patriam exuere potest.* The whole attitude of nations towards the alien has thus changed. The doctrine of Comity is, however, always subject to the supreme law—*salus reipublicæ*—to such restrictions, in other words, as the policy of States and the interests of their own subjects may require ; and an indiscriminate hospitality to foreigners may very well be adverse to such interests, moral as well as material. Each community is doing its best to eliminate as far as possible from its constitution those elements of crime, poverty, disease, and disorder which impair its well-being, if they do not threaten its existence. But such efforts must be doomed to frustration if the evils combated are being constantly fed by a stream of immigration, bringing with it the "social wreckage" of other countries—the "undesirable immigrant," as the Acts euphemistically describe him.

Movements of Population.—Every year, for example, a crowd of emigrants is leaving our shores to find a home in other countries. In 1901 this outward stream of emigration from the United Kingdom to countries out of Europe was 302,575, and a similar stream is going forth from other European countries. From Italy in the same year it was 171,735, from Germany 20,874, from Sweden 12,028, from Norway 10,931, from Austria 94,611, from Switzerland 3,816, from Denmark 3,570, from Holland 1,899 ; and as the knowledge of other countries and the advantages they offer become more widely known and better appreciated, as the facilities of transport increase, the volume of this stream of emigration to the less occupied and more fertile regions of the globe must steadily grow. The new countries which are being thus invaded have of late years come to realise the significance of the situation, and have taken, and are taking, steps to check indiscriminate immigration. They are prepared to welcome an access of population —indeed, they invite it by offers of land-grants. To the United States, with

a stationary birth-rate, immigration is indeed a matter of vital importance, but the immigrants must be persons of the right sort—honest, healthy, industrious settlers. They do not want, these new countries—they will not have—a crowd of paupers, vagrants, and ne'er-do-weels, the vicious and the criminal, landed on their shores; neither do they want, rightly or wrongly, their markets flooded with cheap labour, coloured or white. These two motives have, during the last twenty years, been operating powerfully, and have inspired a great mass of legislation both in the United States and throughout the British Empire.

Alien Immigration Legislation.—The earlier legislation was directed against the immigration of coloured labour—Chinese in particular (*see* an article in this Journal, Vol. II., O.S., p. 336 by Mr. A. R. Butterworth, on "The Immigration of the Coloured Races"). The more recent legislation has a wider range, and draws the cordon of self-protection against undesirable immigrants of every race and class. Naturally the lead in this has been taken by the country to whose shores the tide of immigration chiefly sets—the United States. In the year ending June, 1901, the number of steerage immigrants arriving at the ports of the United States was 487,918. Of these, 137,807 were Italian, 58,098 Jews, 43,617 Poles, 40,277 Scandinavians, 37,742 Germans, 30,404 Irish, 13,488 English, 2,004 Scotch: 62,562 of this total aggregate were under fourteen years of age, 117,587 were unable to read or write, and 294,860 brought less than thirty dollars each—that is, were on the verge of insolvency. Most of them were making for the large towns. An invading horde like this might well call for legislative action.

UNITED STATES.

The legislation in the United States falls into two categories: (1) the protection of labour; (2) the selection of immigrants.

Alien Contract Labour.—By the Alien Contract Labour Laws, 1885, 1887, 1888, and 1891 (now extended to Hawaii), no person, company, partnership, or corporation may in any manner whatsoever prepay the transportation, or in any way assist or encourage, the emigration of any foreigner—that is, anyone who is not a citizen of the United States—to the United States "under contract or agreement, parole or special, expressed or implied," made previous to such emigration, to perform labour or service of any kind (with a few exceptions in favour of domestic servants, actors, artistes, etc.) in the States. All such contracts are void, and the emigrant may be returned any time within a year of his arrival.

The Undesirable Immigrant.—The following classes of undesirable immigrants are also excluded by an Act of 1891 from landing: all idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or dangerous contagious disease, persons who

have been convicted of a felony or other infamous crime or misdemeanour involving moral turpitude (political offences excepted), polygamists, and also any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is shown affirmatively that such person does not belong to one of the foregoing excluded classes or to the class of contract labourers excluded by the Alien Contract Labour Laws. Any immigrant coming to the United States in violation of law may be returned at any time within one year from the date of his arrival at the expense of the person or person, vessel, transportation company, or corporation bringing him; and any immigrant who becomes a public charge within one year after his arrival, from causes existing prior to his landing, may be returned at the expense of the above-mentioned parties. Under this legislation intending immigrants to the number of 3,516 were, during the year 1901, refused a landing: of these, 2,798 were refused as being paupers or likely to become a public charge; 309 as diseased (tuberculosis counts as disease), 327 as contract labourers; and 50 as "assisted immigrants." But the actual number of rejections is no measure of the operation of the Acts, which have, no doubt, deterred many more thousands from essaying immigration to the States at all.

THE BRITISH EMPIRE.

The main stream of emigration from all countries sets to the United States; but a similar stream of lesser volume is flowing to other countries. In 1901, 42,898 emigrated from Europe to British North America, 28,553 to the Cape and Natal, 15,754 to Australasia; and all these portions of the British Empire have now passed Acts analogous to the test Act of the United States.

Canada.

The Dominion.—Thus by the Canadian Immigration Act, 1886 (R.S.C., 1886, c. 65, ss. 1, 23, and 24), a bond of three hundred dollars is to be taken from the master of any vessel bringing any lunatic, idiotic, deaf-and-dumb, blind, or infirm person, to cover the cost of maintenance, should any such person become chargeable within three years; and such person may be re-conveyed to the port from which he was carried to Canada. The Governor-General may also by proclamation prohibit the landing of pauper or destitute immigrants, or any criminal or other vicious class of immigrants.

Penalties are by a more recent Act (1897, c. 11) imposed on persons who promote or assist the importation or immigration of any alien into Canada; but the Act only applies to countries where similar legislation is in force against Canadians.

An Act of 1900 (No. 32) restricts Chinese immigration. Every person

of Chinese extraction (except merchants, students, diplomatists, etc.) is, on entering Canada, to pay a tax of one hundred dollars. The Act throws upon conductors of railway trains and masters of vessels a personal liability for the payment of the poll tax.

British Columbia.—The immigration into this Colony is regulated by an Act of 1900 (No. 11). An educational test is provided. An unauthorised immigrant is liable to a penalty of five hundred dollars, recoverable by distress, in default of payment; and in the event of distress proving inadequate, a term of imprisonment not exceeding twelve months. An unauthorised immigrant cannot acquire or hold land, and is not entitled to the privileges of a free miner; nor may he exercise the franchise.

Manitoba.—No. 1 of 1897 deals with the immigration into Manitoba of certain classes of children. The Lieutenant-Governor may authorise any society or agent to carry on the work of bringing into the Province, on certain terms, indigent, neglected, or dependent children for the purpose of placing them in foster-homes or binding them as apprentices. A penalty is imposed for the importation of an indigent child into the country otherwise than in accordance with the provisions of the Acts; also for importing any child who is suffering from defective intellect, disease, or physical infirmity, which renders him unable to follow any trade or calling, or any child of known vicious tendencies, or who is known to be an habitual criminal, or who has been reared or has resided among habitual criminals, or whose parents are habitual criminals, idiots, lunatics, or weak-minded or diseased or confirmed paupers.

New Brunswick.—An Act of 1899 (No. 26) imposes on persons bringing or landing persons who are likely to become a public charge upon the rates—such as cattlemen on steamships—the liability of paying two dollars per diem for the support of such persons, if destitute. But the persons liable for this sum may, if necessary, take by force and remove the destitute persons to the boundary of the Province. "Destitute persons" are defined to be persons who solicit funds to enable them to pay the cost of travelling from the Province, or being in want of shelter or the necessaries of life.

Province of Quebec, 1899 (No. 47).—This is another Act rendered necessary by the zeal of child philanthropic societies. Every society is by the Act, before placing children in the Province, to lay before the Lieutenant-Governor its object and method of work, and the Lieutenant-Governor may then grant the society a certificate authorising it to place children in the Province. Every society is to register the name of its agent, to provide a permanent home in the Province to which children may be returned, and keep a record of particulars about such children. The society's agent must visit each child once a year. Any society placing any child of known vicious tendencies, or who has been an inmate of a reformatory, is to be liable to a fine, or may have its certificate revoked.

Province of Ontario (No. 53).—This, like the Manitoba and Quebec Acts

(*supra*), regulates the bringing into the Province of indigent, vicious, or criminal children by philanthropic societies.

Australasia.

The Commonwealth of Australia (No. 17), 1901.—One of the first steps of the new Commonwealth has been to pass an Act of a very drastic character, regulating alien immigration to the territories of the Commonwealth. It follows closely the lines of the Natal Act of 1897. A detailed summary will be found in the "Review of Legislation, 1901," at pp. 259-261 *infra*.

Side by side with it (No. 16, 1901) will be found an Act for the putting a stop to the immigration of Pacific Island labourers, hitherto largely employed for cultivation of sugar plantations in Queensland. No Pacific Island labourer—and the term has a wide definition—is to enter the Commonwealth territories after 1904.

New South Wales.—The earlier Acts of this Colony restricting immigration were limited to Chinese and coloured races (Acts of 1888 and 1896, No. 41). The Immigration Restriction Act, 1898, No. 3, is founded on the Immigration Restriction Act, 1897, of Natal, but is less extensive. It prohibits, subject to certain exemptions, the immigration into the Colony, by land or sea, of any "prohibited immigrant"—that is to say, any persons who, when asked to do so by a specified officer, "shall fail to write out in his own handwriting in some European language and sign an application" in the form set out in a schedule to the Act. If any prohibited immigrant makes his way into the Colony in disregard of these provisions, he is liable to be fined, imprisoned for six months, and removed from the Colony. A person appearing to be such an immigrant must before landing deposit £100, which may be forfeited if he do not within one week obtain a certificate that he does not come within the prohibition. Heavy penalties are imposed on the masters and owners of vessels and other persons assisting to contravene the Acts.

South Australia.—No. 672 of 1896 deals with the immigration of the coloured races.

Tasmania.—The immigration of the coloured races into the Colony was dealt with by No. 55 of 1896.

Western Australia.—No. 13 of 1897 prohibits the immigration of—

(1) Persons unable to satisfy a certain indicated test of proficiency in the English language and to write their names in their own language.
(2) Paupers or persons likely to become so.
(3) Idiots or insane persons.
(4) Persons suffering from contagious disease.
(5) Unpardoned offenders who have been within three years last past convicted of felonies or misdemeanours involving moral turpitude, not being offences merely political.

(6) Prostitutes or persons living on the prostitution of others.

The Act also inflicts penalties upon those who introduce prohibited immigrants.

British New Guinea.—No. 8 of 1898 restricts the immigration of Chinese into this Colony.

New Zealand.—The Act of 1899 (No. 26) prohibits from landing in New Zealand any person—

(1) Other than of British (including Irish) birth and parentage, who fails to write out in any European language a statutory form of application;

(2) Who is an idiot or insane; or

(3) Suffering from a contagious disease which is loathsome or dangerous; or

(4) Has within the previous two years been convicted in any country of any offence involving moral turpitude, which, if committed in New Zealand, would be punishable by imprisonment for two years or upwards, not being a mere political offence. Shipwrecked persons are exempted, as are persons with a certificate signed by the Colonial Secretary, Her Majesty's land and sea forces, etc.

A person appearing to be a prohibited immigrant, but not coming within the above sub-sections (2) (3) (4), may land on depositing £100 as security, which is forfeitable to His Majesty if he proves to be a prohibited immigrant. The master and owner of a vessel landing a prohibited immigrant are also jointly and severally liable to a penalty of £100 for each such immigrant, and also to the expense of his removal. Vessels may be detained until all penalties have been satisfied.

An earlier Act of the Colony—the Asiatic Restriction Act, 1896, No. 64, —dealt with the immigration of the coloured races.

Fiji.—No. 3 of the Ordinances of this Colony for 1895 relates to the introduction of imbecile, helpless, and other persons into the Colony. If the collector of Customs certifies that any passenger has arrived in the Colony on board any ship, being lunatic, idiot, deaf, dumb, blind, or infirm, and likely in his opinion to become a charge on the Colonial Government, the collector is to require the owner, charterer, or master of the ship to execute a bond in a sum of £100 for every such passenger. This bond is to serve as a security for the maintenance and support of the passenger during the next five years.

A later Act, 1898, No. 10, deals with the immigration of natives of India.

South Africa.

Natal.—One of the most stringent enactments on the subject is the Natal Immigration Restriction Act, 1897. It prohibits the immigration into

Natal, by land or sea, of any person described in the Act as a "prohibited immigrant." The persons so described are—

(*a*) Any person who, when asked to do so by an officer appointed under the Act, fails to himself write out and sign in the character of any language of Europe an application to the Colonial Secretary in the form scheduled to the Act.

(*b*) Any person being a pauper or likely to become a public charge.

(*c*) Any idiot or insane person.

(*d*) Any person suffering from a loathsome or dangerous contagious disease.

(*e*) Any person who, not having received a full pardon, has within two years been convicted of a felony or other infamous crime or misdemeanour involving moral turpitude, and not being a mere political offence.

(*f*) Any prostitute and any person living on the prostitution of others.

If a prohibited immigrant is found in the Colony, he may be sentenced to six months' imprisonment, and be removed. The master and owners of any vessel from which a prohibited immigrant is landed are jointly and severally liable to a penalty of not less than £100, and this may be increased up to £5,000 by sums of £100 each for every five prohibited immigrants after the first five. The vessel may be "executable" by a decree of the Supreme Court. There are penalties on persons who assist prohibited emigrants to contravene the Act.

Coolie Immigration.—By an earlier Act (No. 17 of 1895) dealing with coolie immigration, every Indian immigrant must enter into a covenant that on the expiration of his contract of service he will either return to India or remain in Natal, under indentures for successive two years' terms of service at a fixed rate of wages. If an indentured Indian fails either to return to India or to enter into a fresh indenture of service, he must take out a yearly licence to remain in the Colony, and pay for it a fee of £3 (amended, 1900, No. 1, Act of 1901).

Zululand.—The Natal Immigration Acts are by 1901, No. 8, made applicable to Zululand.

The West Indies.

Antigua.—See Act of 1896.

Barbados.—By an Act of this Colony, 1892, No. 10, harbour-masters may forbid the landing of any stranger likely to be a burden on the Colony. Such person can then land only if Government is guaranteed against expense within a year; otherwise the ship is subject to a maritime lien, and may be detained, and shipmaster and person landing are both subject to a penalty. A shipmaster is bound to answer all questions. This Act is amended by an Act of 1896, No. 47, exempting shipwrecked persons, foreign seamen, and

stowaways, on the undertaking of their country's Consul to maintain them until reshipped.

Bermuda.—The Immigration Act, 1898, of this Colony was passed to prevent the immigration of persons likely to become a public charge. The master of a "passenger ship," as defined by the Act, is required to deliver to the immigration officer a correct list of such of the passengers as the Act applies to, and such passengers are precluded from leaving the ship until the provisions of the Act are complied with. The immigration officer before granting such permission is to go on board such ship and examine into the condition of such passenger, and if such passenger is found to have been a convict, or to be lunatic or idiot, or deaf or dumb, or blind or infirm, or unable to take proper care of himself or herself, or likely to become chargeable to the Government of the island, the immigration officer is not to allow him to land. The immigration officer may further require a passenger to satisfy him that he is in possession of at least £5. Permission to land may be given upon a bond of indemnity against the passenger becoming chargeable being given by two persons approved by the officer.

British Guiana.—The Destitute and Criminal Immigrants' Regulation Ordinance of this Colony, 1896, No. 4, restricts the landing, except by permission of the Governor, of destitute immigrants until an undertaking has been given by some resident person, approved by the Receiver-General, undertaking to repay any pauper charges incurred on behalf of the destitute emigrant within one year. Power is also given to the Governor by proclamation to prohibit the landing of vicious or criminal immigrants. A later Act of 1898, No. 11, makes the necessary amendments, similar to those of Trinidad and Tobago, as to shipwrecked persons, stowaways, etc. An Ordinance, 1900, No. 27, deals with Indian immigration.

Grenada.—An Act of this Colony of 1896, No. 3, restricts the landing of infirm paupers, and imposes a penalty of £100, secured by maritime lien, on vessels landing them, and a penalty of £50 on the master. The Act also restrains the immigration of alien criminals, and gives the Governor power by proclamation to prohibit the immigration of any criminal or vicious class of immigrants (and see the Infirm Paupers and Immigrants' Regulation Ordinance, 1897).

Leeward Islands.—Pauper immigration is dealt with in three Acts, 1891, 1897, 1898.

St. Lucia.—Immigration Ordinance, 1891, amended 1896, No. 8.

St. Vincent.—Ordinance No. 12 of 1897 is similar to the Granada Ordinance of 1896, No. 3.

Trinidad and Tobago.—The protection of natives, 1899, No. 19.

No. 11 of the Ordinances of 1895 makes provisions restricting the landing in the Colony of criminal and vicious immigrants.

No. 12 of 1897 consolidates the Ordinances relating to immigration.

No. 10 of the same year makes an exception in favour of shipwrecked

persons, foreign seamen, and stowaways, on the Consul of the country to which they belong undertaking to maintain them till they can be reshipped.

Other Colonies.

Malta.—In 1899 Malta passed a strong measure (No. 1) against the introduction of undesirable aliens. On arrival, all aliens must give a full account of themselves. If they are going to reside, they must give further particulars and guarantees that they will not become a burden on Malta. The guarantors must be British subjects. When an alien cannot comply with the law, or commits any breach of it, he may be expelled.

Hong-Kong.—No. 5 of the Ordinances of 1895 enables the Governor in Council to prohibit or regulate the immigration of Chinese into the Colony whenever he is satisfied that there is danger of the introduction of disease into the Colony, unless measures are taken to prevent the influx of Chinese.

Straits Settlements.—A decree of 1880, interpreted by a later decree of 1900 (No. 15), deals with the immigration of Chinese into this Colony.

THE EUROPEAN STATES.

And how, it may be asked, are the older countries, the States of Europe, acting? The answer is that they have been content to rely on the system of passports and registration of aliens, with the right of expulsion, incident to every State, in reserve. The system of passports as a condition of admission has of late years been greatly relaxed, but it still obtains largely as a guarantee of respectability and as a means of identification in case of need. Thus in Germany a passport is not obligatory, but as evidence of identity it is almost indispensable for persons intending to reside. For Russia a passport *visèd* by a Russian Consular officer is necessary to enter the country; and if the holder wishes to reside in Russia for more than six months, the passport must be exchanged for a Russian *billet de séjour*, to be renewed annually. In Switzerland a passport is necessary to obtain a *permis de séjour*. Persons travelling to Turkey will not be admitted without a passport *visèd* by a Turkish Consular officer. In Belgium, for purposes of residence, registration at the police office of the district is required. In France, for permanent residence, or in order to exercise a profession or trade, a declaration furnishing particulars with respect to the family, nationality, profession, etc., of the person making the declaration is required to be made at the *mairie* of the commune within a few days of arrival. In none of these countries, however, nor in the other European countries, such as Denmark, Italy, or Sweden and Norway, where no regulations at all are in force, is the immigration of aliens of an amount or a kind to make it a serious national problem. With England the case is different. London is a *colluvies gentium*, the market of the world, and to it "the nations seek," the destitute and the unfit in increasing numbers.

England's Policy.—Yet England knows neither passport, registration, nor test. Like Athens of old, she has made herself κοινὴν to the alien. It is her proud boast that she is an asylum for the oppressed; and that asylum has always during her long history been maintained inviolate against foreign Governments.[1] The time seems coming, however, if not already come, when, in view of changing conditions, this country must reconsider its position and policy; and the subject is even now engaging the attention of a Royal Commission. According to the latest Board of Trade return, the number of aliens arriving at British ports per month, and not stated to be *en route* to America or other places out of the United Kingdom, was 9,017, or at the rate of over 100,000 a year. A large proportion of these immigrants were in destitute circumstances—Jewish refugees from Russia and Roumania—and it is a significant commentary on their character that no fewer than 4,940 foreigners were charged at the metropolitan police courts during the past year, without including the City of London.[2] As the ports of other countries are successively closed against prohibited immigrants, or banished races have to find a new home, they must, it is obvious, be driven in increasing numbers to seek refuge in the ports of the United Kingdom.

In discussing the remedy for this state of things, the existence of an Act, called the Registration of Aliens Act, 1838, seems to have been generally overlooked. By this Act the master of every vessel which arrives in this realm from foreign parts is, immediately on his arrival, to declare in writing to the chief officer of Customs at the port of arrival whether there is to the best of his knowledge any alien on board his vessel, and is in his said declaration to specify the number of aliens, if any, on board his vessel, and their names, rank, occupation, and description so far as he shall be informed thereof. The penalty for refusing to make the declaration is fixed at £20, and a sum of £10 for each alien not declared. The Act further provides for a complete system of registration of aliens by Customs House officers. Here is machinery, suffered unfortunately to rust, but well adapted to meet the requirements of the case. An alien has no legal right enforceable by action to enter British territory, as the Privy Council decided more than ten years ago in the case of *Musgrove* v. *Chung Tecong Toy* [1891], A.C. 272. He comes here under the comity of nations, and the Crown has power by its prerogative,[3] in the interests of the public, to prevent

[1] Subject in recent times to Extradition Treaties.

[2] And see the remarks of Darling J. in passing sentence on the Banknote Forgers, December 22nd, 1902.

[3] The right of the Crown as matter of prerogative to expel aliens from the realm has been much controverted (*see* an elaborate article in the *Edinburgh Review*, No. 42, p. 99, 1825). Lord Ellenborough affirmed the right strongly. In modern times it has been the practice to pass an Act for the purpose; but the right to prohibit aliens entering the realm is a very different matter. "The King hath, I conceive," said Jeffreys C.J. (10 *St. Tr.* 530), "an absolute power to forbid foreigners whether merchants or others from coming within his dominions."

his landing, unless he complies with the conditions it may think proper to prescribe. The Crown is, as Lord Hale expressed it, "the bearer of the keys of all the ports and havens in the country." An Order in Council, therefore, framed on the lines of some of the Colonial Immigration Acts already cited, would accomplish all that is necessary for self-protection. But self-protection is not the only moral of the Alien Immigration Acts. Their great lesson is that the time is fast coming when each nation must deal with its own "unfit" products, and will not be able to foist them on other countries. "Consume your own smoke," was a favourite aphorism of Carlyle, not the less admirable because the philosopher "reck'd not his own rede." Nations as well as individuals must learn to "consume their own smoke."

WHAT IS A STATE OF WAR IN LAW.

[*Contributed by* G. G. PHILLIMORE, ESQ.]

Foreign War.—In external relations a state of war is created for British subjects by a declaration of war made by the Crown under its exclusive prerogative right to do so, which carries with it all the force of law as based on a prior law (Willes J., *Esposito* v. *Bowden*, 1857, 7 E. and B. 763); or whether between Great Britain and a foreign State, or between two foreign States, by the actual beginning of hostilities (*The Teutonia*, 1872, L.R. 4 P.C. 171; *Driefontein Consolidated Gold Mines* v. *Janson*, 1902, A.C. 484). A declaration of war is not necessary to constitute a state of war, on both sides or even one (*The Ceres*, 1800, 3 C. Rob. 79, Portugal and Holland; *The Nayade*, 1802, 4 C. Rob. 251, Portugal and France; *The Success*, 1812, 1 Dods. 131; *The Eliza Ann*, 1813, 1 Dods. 144); and under our Foreign Enlistment Act it is the occurrence of actual hostilities, and not the recognition of those hostilities by the British Government in issuing the customary proclamation and declaration of neutrality, that decides when the duty to observe neutrality begins (*Pelly* v. *United States of America*, 1899, W.N. 9, a case arising out of the Spanish-American War). In the South African War the expiration of the time specified in the ultimatum presented to Great Britain by the Republics, within which their demands were to be complied with, was held to be the beginning of hostilities, so certified by the Secretary of State for the Colonies (*Driefontein Case*, above). English law recognises no intermediate state between war and peace (Romer L.J. and Lord Macnaghten, *ibid.*, 1901, 2 K.B. 419; 1902, A.C. 484); strained relations are not war (Lord Halsbury, *ibid.*); and English Courts will not go into questions of what were the intentions, hostile or peaceful, of governments in their conduct before hostilities actually begin. Certain acts, however, done at a time when the relations of two governments are uncertain, take their legal character from subsequent events; and such an act as an embargo, or forcible seizure of foreign property, generally shipping, although it is an act of State, a measure taken in contemplation of hostilities (Lord Stowell, *The Theresa Bonita*, 1802, 4 C. Rob, 286; *The Isabella Jacobina*, 1801, *ibid.*, 77), has its nature determined for it by subsequent events for peace or war, and consequently does not create a state of war unless followed by declaration of war or outbreak of hostilities,

which then acts retrospectively, at any rate for prize purposes (*The Herstelder*, 1799, 1 C. Rob. 114; *The Boedes Lust*, 1804, 5 C. Rob. 233). Otherwise a seizure before hostilities is invalid (*Nostra Senhora de los Angelos*, 1801, 3 C. Rob. 287; *The Narcissus*, 1801, 4 C. Rob. 17). The present position in Venezuela is one of this character, unless the seizures made by the British and German Governments assume a more general character. Limited reprisals do not constitute a state of war; but general reprisals, in spite of Hale's opinion that they are not regular war, are now generally treated as indistinguishable from war (Phillimore, *Int. Law*, iii. 29); and the Crimean War began by a grant of general reprisals against Russia (*ibid.*, 21). In the older prize cases, Lord Stowell held that contracts made in contemplation of war were to be treated as equivalent to contracts made in war, whether the parties thereto were British subjects, neutrals, or enemy subjects (*The Atlas*, 1801, 3 C. Rob. 299); and this doctrine seems to hold good still, so far as British subjects are concerned. A state of war is a necessary foundation of the jurisdiction of the Prize Court, which excludes the jurisdiction of the municipal Courts over all questions relating to belligerent seizure of persons or property at sea, though captors and claimants are both British subjects (*Le Caux* v. *Eden*, *Lindo* v. *Rodney*, 1781, 1 Dougl. 594, 612). The jurisdiction of the Prize Court continues even after the cessation of hostilities, for there must be a "twilight or continuance of it, the same as over acts *flagrante bello*, just as there is a certain time for hostilities to cease, which continue *de facto* after they end *de jure*" (*The Harmony*, 1815, G. Cooper 325), if the prize commission is still in force (*The Katharine*, 1860, Lush. 142). This state of things also gives the Crown power to enforce against its subjects or foreigners treaties or arrangements (such as *modi vivendi*) between itself and foreign Powers, which, so far as its own subjects are concerned, it seems to have no power to do in time of peace (*The Eenrom*, 2 C. Rob. 1; *Walker* v. *Baird*, 1892, A.C. 491).

Proof.—Evidence of a state of war is furnished by the proclamation by the Crown, proved by production of the *Gazette* in which it is printed (*R.* v. *Forsyth*, 1814, R. and R. 274; *R.* v. *Love*, 15 Cox C.C. 286; 2 Phillips 138) or by copy printed under the Documentary Evidence Acts, 1845 and 1868. The date of a declaration of war against Great Britain by a foreign Power has been proved by the production of the declaration itself, handed to our ambassador abroad, and transmitted by him to the Secretary of State's office (*Thelusson* v. *Cosling*, 1803, 4 Esp. 266). The Court can take judicial notice that a war exists between Great Britain and a foreign State, certainly if it has been recognised in Acts of Parliament, though not apparently if only in resolutions of either House (*R.* v. *De Berenger*, 1814, 3 M. and S. 67; Russell, *Crimes*, i. 536), but not of a war existing between foreign countries (*Dolder* v. *Lord Huntingfield*, 11 Ves. 292). If war is not publicly proclaimed nor noticed by Statute, its existence is a question of fact (Taylor i. 27).

State of War within the Realm.—Besides foreign war, our law recognises the possibility of a state of war existing within the realm caused by the presence of an invading enemy or by insurrection with which ordinary civil authority is unable to cope. The *jus belli* is part of the law of England (Willes J., *Esposito* v. *Bowden*, 7 E. and B. 763). The accepted historical test of such a state of things is familiar to all constitutional lawyers and rests on "the reason of the thing"—namely, that the civil jurisdiction is no longer exerciseable; and the Executive is then entitled and bound to take exceptional measures of force for suppression of the public danger. If these are inconsistent with the ordinary law, such measures are known, at least popularly, as the employment of martial law. The nature and extent of martial law in rebellion has already been considered in this Journal (N.S. 1900, p. 46); and the considerations applicable to rebellion appear equally, and indeed *à fortiori*, to hold good as regards foreign invasion. Besides the definitions of a state of war and peace stated there—*e.g.* "if the Chancery Courts and Courts of Westminster be shut up that are the *officina justitiæ*, it is time of war, but if the Courts be open it is otherwise: yet if war be in any parts of the kingdom, that the sheriff cannot execute the king's writ there, there is *tempus belli*" (Rolls); and "regularly when the king's Courts are open there is peace in judgment of law" (Hale)—that of Coke in the *Institutes* may be added here (1. 249 *b*): "Of Discents by occupation in time of war: First it is necessary to be known what shall be said time of peace (*tempus pacis*) and what shall be said *tempus belli* (time of war). Tempus pacis est quando Cancellaria et aliæ curiæ regis sunt apertæ quibus lex fiebat cuique prout consuevit. And so it was judged in the case of Roger Mortimer and of Thomas Earl of Lancaster. . . . And therefore when the Courts of justice be open and judges ministers of the same may by law protect men from wrong and violence, and distribute justice to all, it is said to be time of peace. So when by invasion, rebellion, insurrection or such-like, the peaceable course of justice is disturbed and stopped, and the Courts of justice by martial law are shut up *et silent leges inter arma*, then it is said to be time of war. And the trial hereof is by the records and judges of the Courts of justice, for by them it will appear whether justice had her equal course of proceeding at that time or no, and this shall not be tried by a jury."

In the recent South African War discussions took place both in Parliament and the Courts (chiefly those of the Colonies concerned) upon questions where the martial law administered by military authorities and Courts came into conflict with the ordinary law and jurisdiction, such as while martial law was in force at the ports, the way in which the military authorities exercised their discretion as to allowing persons to enter or leave the country, as, for example, Miss Hobhouse and Mr. Cartwright, and the availability of the right of *habeas corpus*. The Courts, being left in the exercise of their jurisdiction, had consequently to consider how they could reconcile

rights given by the law of the land with the regulations of martial law; and, speaking generally, they did so by allowing the latter system to prevail, subject to their being satisfied of the necessity for the enforcement of the military jurisdiction. In one case (*Fourie's Case*, 1900, Buchanan xvii. 166) the opinion was expressed—following the view taken by the Chief Justice of Cape Colony in 1851 (*Godfrey* v. *Stander*, 1 Searle 63)—that the proclamation of martial law of itself suspends the operation of the ordinary law (Buchanan J. 178), or that it is at least *prima facie* evidence, though not conclusive, of the necessity (Maasdorp and Solomon J.J. 181, 183, *Fourie's Case*, above; and *R.* v. *Gildenhuys*, 1900, *ibid.*, 263). In the well-known *Marais Case*, Buchanan J. repeated his former opinion, holding that the Court must not by interference accept responsibility for the acts of the military authorities, for which they will have to answer later civilly unless protected by statutory indemnity. It is submitted that a better view, at least in point of principle, was adopted by the Court in other cases (*R.* v. *Bekker*, *R.* v. *Noade*, 1900, *ibid.*, 340; *R.* v. *De Preez*, 1900, *ibid.*, 53)—namely, that the question of military necessity was one which the Court must determine for itself; and the Court called on the military authorities to return the reason for the detention of the prisoner who had applied for a *habeas corpus*. In *R.* v. *Bekker* a return that martial law was still in force by proclamation in the district where the prisoner was arrested by the military authorities, because, although no state of war existed in that district, it bordered on one where actual hostilities were still continuing, was held sufficient; but in *R.* v. *De Preez*, where the prisoner had been taken out of a district where martial law was in force to another where it was not, on his application for a *habeas corpus* he was released by the military authorities. In Natal, in a case where an order was asked for to forbid the Post Office from handing over letters to the military censor, the Court refused to make the order, on the ground that there was a military necessity, but Mason J. stated that in his opinion the Court was the only judge of that necessity (*Morcom's Case*, Journal, ii. N.S. 514). The Privy Council, however, in its recent decision in *Ex parte Marais* (1902, A.C. 109), justifying a case of military custody for breach of a martial law regulation in a martial law district where civil Courts were sitting, took the shorter course of declaring that the principle of *inter arma silent leges* was applicable, as a state of war was shown to exist in the Colony, and laying down the proposition that "the fact that for some purposes some tribunals have been allowed to pursue their ordinary course in a district where martial law has been proclaimed, is not conclusive that war is not raging." This qualification of the constitutional test of what is war and peace in judgment of law has never before been applied to British subjects.

The precedent cited in the judgment, *Elphinstone* v. *Bedreechund*, dealt with the case of a person not a British subject, a *locus in quo* which was

British territory only by occupation, not by annexation, at a time when war, if *non flagrante*, at least *non dum cessante*, and the decision was that "having regard to the time, the place and the person," the matter was not examinable in the civil Courts, although a civil Court had been set up by the military administration of that territory. The proposition has, however, received the extra-judicial approval of the Lord Chief Justice in Parliament; and the opinion of Buchanan J. in *R.* v. *Bekker* to the same effect, saying that "the Courts must not only be open, but in full, proper, and unrestricted exercise of their jurisdiction," and "where martial law is paramount civil judicature is stayed—the two jurisdictions cannot work concurrently," perhaps shows how the two propositions can be reconciled. There is a difficulty, however, in understanding how civil Courts, if allowed to exercise jurisdiction at all, can refuse to do so for any purpose for which that jurisdiction is lawfully invoked. Logically it would seem that they should exercise it, leaving it to the Executive to prevent its enforcement where contrary to military necessities, or to carry legislation for that purpose. Otherwise, it seems that the Courts, by accepting subordination to the military jurisdiction, assimilate themselves to the Courts of a State whose territory is occupied by hostile forces, like the Courts in France in 1814 during the British invasion, when, in the words of the Duke of Wellington, "the judges consented to act under his direction, and sat in the courts of law, conducting their judicial business and administering their national laws under his direction." Whether the old definition of a state of war and peace holds or not, this qualification makes the Executive judge of the necessity, and gives it power to dispense with any constitutional safeguard by alleging necessity. Unless the use of extraordinary powers by the Executive are kept as strictly confined as hitherto to the limits of military necessity by the formulation of some such test as that of the actual interruption of civil jurisdiction, the plea of necessity, and the Crown being the sole judge of that necessity, will give the Crown a power as wide as that claimed in the arguments and judgments for the Crown in the Ship Money case. What new test is it proposed to set up?

The concluding passage in the *Marais Case* judgment—"The framers of the Petition of Right knew well what they meant when they made a condition of peace the ground of the illegality of unconstitutional procedure"—seems to imply that the Statute only prohibits martial law in time of peace, but allows it in time of war. If this be so, it might be urged that "time of peace" must be taken to mean what it was defined to mean by the constitutional lawyers of the time—viz. the continuance of the civil jurisdiction. But the Statute makes no mention of peace, and Lord Blackburn's view was that in the Statute "the Legislature did not in terms declare that in time of war the Crown had no such power, but it did not by any means follow, nor could it be a reasonable inference, that it was legal to do so in time of war" (*R.* v. *Eyre*). An argument to this effect might

perhaps be founded on the words in the preamble to the Mutiny Act of Anne (1702), reproduced in the present Army Act, reciting that "the maintenance of a standing army in time of peace without consent of Parliament is against law, and that no man may be forejudged of life and limb or subjected [in time of peace] to any kind of punishment [within this realm] by martial law or otherwise than by the judgment of his peers and according to the known and established laws of this realm." But the words in brackets do not appear in the earlier Mutiny Act (the first) of William and Mary (1689), and there is some doubt as to how they got in—Cockburn L.C.J. thinking that the words in the first bracket had been copied by inadvertence from the previous sentence, but Clode treating this and the second bracket as additions deliberately made. It might even be argued that from the collocation of the words the first bracket is only to be read with "subjected" and the following words, and not with the previous words at all; and these previous words would then correspond with the recital in the Petition of Right that "by the authority of Parliament in 25 Edward III. it was enacted that no man shall be forejudged of life and limb against the form of the Great Charter and the laws of this land." At the present day, however, it is hardly likely to be contended that the prerogative rights of the Crown include the proclamation and enforcement of martial law by military courts (see per Solomon J., *R.* v. *Bekker*, above); and that this was the view taken by the Executive in the recent war is shown in the answer of the Secretary of State for the Colonies to the request by the minority of the Cape Assembly for suspension of the Cape Constitution, in the wording of the instructions for applying the martial law regulations, and in the Colonial Secretary's request to the legislatures of Cape Colony and Natal to pass Acts of Indemnity for all persons engaged in executing martial law. Constitutionally, it is immaterial whether the prerogative is exercised by Ministers possessing a Parliamentary majority for the public benefit, or, as in Charles I.'s reign, by a Sovereign for enhancing the powers of the Crown: the subject's rights remain the same in either case; and it is the more important to preserve these undisputed, the more duties and powers accrue, as they must do, to the Executive power. Another argument has been adduced in favour of the Crown's right and duty to take all the steps it considers necessary to meet a public danger, whether justified by law or not—namely, that the old authorities in speaking of martial law referred to something quite different from the modern use of the term, viz. military law. But it seems to be an answer to this to say that what made martial or military law unconstitutional and illegal before the Mutiny Acts (except in time of actual war, and then probably as against all but the army) was just what makes martial law similarly illegal now—namely, the setting up of a law of necessity which is not justified by ordinary law; and it is in this sense that such modern authorities as Lords Campbell,

Cranworth, Blackburn, and Cockburn L.C.J. have treated the old authorities as applicable to the modern law of necessity. The prerogative of the Crown does not enable it to make or unmake law by its proclamation, but only to declare it (*Ex parte Chavasse*, 34 C.J. Bkcy. 17); nor to set up a new Court to administer any jurisdiction other than the common law (*Re Lord Bishop of Natal*, 3 Moo. P.C. N.S. 116, 152).

It has before been suggested that in view of the constitutional and legal difficulties and doubts surrounding the adoption and administration of martial law, legislation should be passed to deal clearly and comprehensively with the whole subject; and our recent experiences in the South African War seem to show that this is no less necessary now. If any time, the present would seem to be a good opportunity for doing so, when the various considerations affecting martial law are present to the minds of the legislatures and Courts here and in South Africa; but the occasion for its enforcement is happily passed.

PRÆDIAL LARCENY IN JAMAICA.

[*Contributed by* S. Leslie Thornton, Esq., *Resident Magistrate.*]

In view of the fact that recently the Secretary of State for the Colonies proposed to send a legal expert to the West Indies to enquire into and report on the prevalence of the crime of prædial larceny in those Islands,[1] it may be of interest to attempt to describe the extent to which it prevails in Jamaica, where it is most widely known and deplored, and the steps that have been taken there and in other of the Islands to suppress it.

Its Prevalence.—Prædial larceny, or the larceny of things attached to the land or a farm, as an offence, is chiefly known elsewhere only as one of the items included in statistical returns, rather than as a crime which from its frequency is of any serious public importance. But in Jamaica, from its widespread and persistent occurrence, it has long been a serious factor militating against the prosperity of the Colony. As is well known, by the English common law, which prevails also in Jamaica, "larceny cannot be committed of things which savour of the realty, and are at the time they are taken part of the freehold." The severance and taking of things of this description is regarded by the common law merely as a trespass. In the words of Sir William Russell, in his well-known work on *Crimes*, "one reason for this doctrine is said to be that things which are a part of the freehold, being usually more difficult to remove, are less liable to be stolen. Possibly, also, the doctrine may have proceeded upon certain subtleties in the legal notions of our ancestors; and it may perhaps in some measure have originated in the greater security from private depredations of the things which were part of the freehold, than of those which were merely personal in the earlier times, when articles of provision and other personal chattels (frequently the more valuable) were carried from place to place by the individual tenants, in that attendance in the camp which was exacted by their military tenures."

Whatever might have been the origin of the doctrine, the social conditions of a closely settled country like England for very many years past have obviously been such as to render the commission of such a crime of no very frequent occurrence or of any serious importance to the community.

[1] Since this was written it is believed that owing to the absence of support on the part of the Colonies concerned this proposal has been abandoned.

The Negro and his "House-spot."—On the other hand, in Jamaica the conditions for the development of this criminal tendency have been, and still continue to be, most favourable. In the first place, we have a very large preponderance of the negro element in the population; and speaking generally, we may say that six out of every seven persons are black. As a race their contact with civilisation may be said to date only from the emancipation—a period of less than a century. To the lack of an inherited sense of duty and responsibility must be added the influence of a natural reaction from the time when the negro as a slave had no rights—a reaction which tends to give undue importance to the natural desire of all men to become their own masters. This motive would seem to be at the root of the negro's intense ambition to become an owner of land, on which he will be king of his own castle, and free from the interference or dictation of a master. I do not think even in Ireland the native can have a greater attachment to his piece of land, than the negro in Jamaica has for his "house-spot" and "provision-ground." But unfortunately, in my experience, once the object of his ambition has been attained, and he has become the happy possessor of a piece of land, the stimulus to further exertion seems to die out, and for all practical purposes of regular labour his services as an industrial member of the community come to an end.

In spite, however, of the settlement on the land in sole ownership of a very large proportion of the population, there is such an abundance of land available, and Nature is so responsive to the efforts of the agriculturist, that the minimum of effort instead of the maximum suffices to keep the settler's immediate wants supplied, and he is content to be the poorest of all peasant proprietors. The acquisition of his piece of land usually leaves the new owner without capital, and as the number of mouths that are dependent on the land increases, there is a distinct tendency towards degeneration and greater poverty.

The whole of his capital being exhausted in the payment for his land, the negro has none left for the purpose of obtaining a good title to it, or of defining its limits. Permanent boundaries or fences in a country where the timber for fences or the stones for walls can be had for the mere trouble of taking, are in most cases non-existent; and a stamped receipt for the price is all the documentary evidence that most settlers can show to vouch for the transaction.

Like the rest of mankind, the negro is a gregarious animal. His superstitions alone would be sufficient to lead him to prefer to live surrounded by his neighbours and kinsfolk, if the convenience of so doing did not influence him in the same direction. While, however, he contrives to make his "house-spot" in some village or hamlet, it is frequently out of the question for him also to acquire a piece of land to suit the sort of cultivation he desires; and he is consequently driven to rent or buy such a piece at a distance more or less remote from his home. Thus situated, he carries on

his cultivation by periodical visits, leaving it to take care of itself when he is at his home or employed elsewhere.

The System of Land Cultivation.—As a rule, the system of cultivation, if such a process can be called cultivation, consists in deforesting, by burning, all the timber and undergrowth on the land, and planting the virgin soil with yams of various sorts, cocoas,[1] sweet potatoes, peas, corn, cassava, and sugar-cane as thickly as the land will hold them. These crops require from six months to two years to come to maturity, and at the end of the first year a fresh piece of land is cleared, and the same process goes on. The acre that is rented is never run off, and is, in fact, better described as "a ground," having no defined area; and though annually a new "ground" may be rented, the tenant regards himself as entitled to the use of the old "ground" so long as any of his plants continue to produce anything worth the taking. It is not, indeed, uncommon to find a man who is the nominal paying tenant of one acre, to be enjoying the usufruct of three or four.

Fecundity of the Negro.—One other characteristic of the negro race that is relevant to the consideration of this question is its fecundity. Fifteen to twenty children frequently acknowledge one man as their father. Though the father's moral responsibility for their maintenance is little affected by the fact of their legitimacy or illegitimacy, when it is borne in mind that the average rate of illegitimate births as compared with those born in wedlock amounts to about 65 per cent. for the whole Island (in some parishes running up to 75 per cent.), it is obvious that parental responsibility is not likely to be very strictly observed. In point of fact, large numbers of children, young girls and lads, have to look out for themselves as they best can; and though during the greater part of the year Nature makes this no very difficult task, there are times and seasons when it is not easy to do so honestly.

Absence of a Superior Class.—A further feature of the state of society is that there is no hierarchy of classes among the black population. With very rare exceptions, though some have more land or more stock than others, all may be regarded as substantially of the same social level. There is lacking, therefore, the moral influence of a superior class, which by the influence of its wealth or education can raise the race to higher things. The disestablishment of the Church has had similar results. This is not the place to discuss the policy of this measure, and politically the results may have justified the step; but I do not think any one who knows the country will deny that, socially and morally, the general standard has suffered —at any rate temporarily. Black and coloured ministers of religion have very largely taken the place of educated Englishmen, and, with the best will in the world, they do not carry the same influence, nor have they the

[1] The vegetable referred to is an edible root, and is not to be confounded with the cocoa or chocolate which comes from the pod of a tree.

same equipment as their predecessors, for elevating or guiding the members of their flocks.

Conditions of Negro Life Summarised.—To summarise, we find in Jamaica a large poor population of negroes settled on the soil, owning small pieces of land widely scattered and in many instances remote from their homes. We find that their holdings have no protection in the shape of fences or walls, and but little in the way of personal supervision. As a class they are, generally speaking, of the same social level; and their standard of living is of the lowest. Content with an existence under which they can obtain the immediate necessaries of life in the shape of food, they have yet to face the fact that in point of numbers they are increasing rapidly—in a far more rapid ratio than their resources. In the struggle to rise to better things they are heavily handicapped by the fact that each year sees in the country parishes fewer examples of a higher civilisation in the shape of educated Englishmen; so that beyond the education which at great cost is provided for them by the Government, mainly through teachers of their own class, they can look to but little outside help in the direction of ameliorating their position.

Characteristics of the Offence.—With social conditions such as these, the marvel is not that prædial larceny exists, but that it is not much more rampant than it is. With extremely rare exceptions the offender is a member of the black race, and so far as my experience goes, the crime is almost entirely confined to cases of petty pilfering, where food rather than gain is the immediate object. I do not recollect a single case of organised robbery by a gang on a large scale, though I have met with no inconsiderable number of cases in which an individual has stolen some vegetable products for the purpose of selling them and realising a little money. As the offender is usually a negro, so the sufferers are for the most part of the same race, partly because the white proprietor does not as a rule cultivate to any large extent such fruits or vegetables as the negroes require, and partly because, when he does do so, he takes more effectual measures for their protection. The value of the produce stolen in the great majority of cases is of the slightest. For instance, in one case, a police inspector, when making his annual report on the crime of his parish, stated that the total value of the produce charged to have been stolen in the year under review amounted only to £3 15*s*. As this amount probably represents the total value of the booty carried off by perhaps a hundred different offenders, the trivial character of the theft can readily be estimated.

Its Seriousness to Industry.—It is not, therefore, the value of the property stolen that gives to this crime its importance, though no doubt, for the reasons given later, only a small proportion of the thefts committed come to the knowledge of the police; but it is the indirect effect on industrial enterprise which is produced by this system of constant and ubiquitous pilfering. The harassing nature of the process may be gathered

from the accurate description of the mode of operations recently given by Mr. Leach, a resident magistrate of St. Catherine, at a public meeting held in that parish. After stating that any one offence of this nature was usually insignificant, but that when aggregated they simply meant ruin to the cultivator, he continued :—

A man has an acre of land cultivated in several varieties of agricultural products, yams, bananas, cassavas, plantains. The prædial thief in Jamaica will not enter this provision-ground and on one occasion steal and carry away all the yams, bananas, cassavas, and plantains growing there. If he did this, he would be pretty sure to be found out. But he will go to-night and dig out four or five hills of yams ; the next night he will go for the bunch of bananas ; in two or three days' time he will help himself to the bunch of plantains, and a short time after to the cassavas ; and thus we find at the end of a month or so the unhappy owner of the acre divested of the entire fruits of his labour. This much for the small cultivator ; what about the large grower with a hundred acres or more cultivated in, say, bananas? The methods of the prædial thief are pretty much about the same. You will not find a gang of thieves stealing one hundred bunches or any large number of bunches on any particular occasion. The prædial thief will attack the one hundred acres in the same way as he does the small provision-ground. He will go to-night and take two bunches, the next night two or three more. If undiscovered, a night or two after he will be aided by a member of the family, and take another small quantity, and so on.

If a negro has one conviction more firmly rooted in his mind than another, it is that the edible products of the soil are given by the Creator for the benefit of the community in general, and the factor of human industry in their production is entirely ignored. Unless an actual sufferer himself, the natural attitude of his mind is one rather of a sympathetic fellow feeling with the thief. The wide-reaching blood relationships between the negro inhabitants, combined with their superstitious fears of the possible consequences to themselves of bringing an offender to justice, seriously prejudice the endeavours of the authorities to check this evil.

Its Extent.—The cases, therefore, that come before the Courts bear a very small proportion to those that actually occur ; but the extent to which the crime prevails may be gathered from the following table of apprehensions and convictions for prædial larceny in Jamaica from 1883 to 1902 :—

Year.	No. of Apprehensions.	No. of Convictions.
1883-4	743	337
1884-5	789	328
1885-6	1,500	765
1886-7	1,073	546
1887-8	952	443
1888-9	1,522	876
Half-year ending March 31st, 1890	534	311
1890-1	1,528	936
1891-2	1,781	1,013

Year.	No. of Apprehensions.	No. of Convictions.
1892-3	1,606	958
1893-4	1,472	769
1894-5	1,302	644
1895-6	1,971	1,215
1896-7	2,433	1,433
1897-8	2,418	1,481
1898-9	1,611	946
1899-1900	1,169	763
1900-1	1,583	1,006
1901-2	1,603	1,115

As might be expected, the figures show a considerable variation for the different years, but in spite of legislation on the subject and the public efforts recently made towards the suppression of the crime, the last decennial period exhibits a large increase on the previous one.

The following figures, covering the three last years, which were kindly furnished to me by the Deputy Inspector-General of Police, show that it is pretty equally distributed throughout all the country parishes, irrespective of the wealth of their inhabitants or the kind of cultivation there carried on :—

Parish.	1899-1900		1900-1		1901-2	
	Apprehensions.	Convictions.	Apprehensions.	Convictions.	Apprehensions.	Convictions.
St. Andrew	16	2	39	32	39	20
St. Thomas	85	48	95	48	73	40
Portland	57	43	57	40	79	41
St. Mary	121	71	163	108	101	72
St. Ann	88	62	104	55	121	78
St. James	94	56	79	56	129	113
Trelawny	46	43	77	61	88	80
Hanover	45	37	94	72	137	97
Westmoreland	80	47	110	76	164	105
St. Elizabeth	129	87	237	118	156	109
Manchester	137	101	165	105	187	137
Clarendon	135	88	199	126	189	123
St. Catherine	136	78	164	109	140	100

At first sight these figures seem to show that some two-fifths of the total number of cases were committed in the four southern parishes of St. Elizabeth, Manchester, Clarendon, and St. Catherine; but as in point of area and population these parishes contain, roughly speaking, about two-fifths of the land and population of the entire Island, the number of cases shown to have occurred there probably does not represent more than their fair share. Returns for the parish of Kingston, which contains only an urban population, were not included in those furnished to me, but as might be expected, this crime is there of rare occurrence. It is also worthy of note that in St. Andrew, where the proportion of the white population to the black is far in excess of what

it is in all other parishes other than Kingston, the number of cases is considerably less than elsewhere. If we take the parish of St. Elizabeth as a fairly representative country parish, we find it contains as regards area, nearly 500 square miles, and as regards population some 70,000 persons, of whom probably less than 5,000 live in towns, the remainder being scattered in every part of the parish.

Inadequacy of Police Force.—The police force provided by the Government to protect the large area and population of such a parish as this, consists of some forty to fifty constables in the regular force, and a varying number of what are known as district constables resident in every part of the parish, and paid at the rate of two shillings a day when actually employed. Having regard to their other duties and the smallness of their numbers, the regular police force is unable to do anything in the way of night patrolling.

History of Legislative Remedies.—Such being the character of the crime, the extent to which it prevails, and the means that exist for its detection, it may be useful now to trace the history of the action taken by the Legislature for its suppression.

In 1864, by Law 27 Vict., c. 33, the provisions contained in the English consolidating criminal Statute, 24 & 25 Vict., c. 96, were substantially, with but few and unimportant verbal alterations, introduced into Jamaica. Whether from oversight or intention, this Law contained no enactment specially applicable to this particular crime. It became necessary, therefore, in the following year to repeal ss. 23 and 24 of the former Law, and to substitute new provisions dealing with the subject. The preamble of the new Law 28 Vict., c. 4, which runs as follows—"Whereas the stealing of growing produce and other products attached to or growing on land has become of so frequent an occurrence, that it is expedient to amend the law, and to increase the punishment on offenders," etc.—shows that the crime had already at that date become of sufficient importance to require special legislation. This Law, by s. 2, provided that "whosoever shall steal, or shall destroy or damage with intent to steal, any tree, plant, root, fruit, or any other vegetable production, growing in any garden, orchard, provision-ground, or cane, or coffee, or pimento-field, the value whereof shall exceed ten shillings," shall be guilty of felony, and punishable as for simple larceny. S. 3 provides for the same crime where the value is under ten shillings, that the offender on summary conviction shall be liable to six months' imprisonment with hard labour, and on a second offence be guilty of felony and punishable as for simple larceny. S. 4 provides for the offence of stealing similar vegetable productions, where such vegetable productions are "used for the food of man, or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, growing on any land open or enclosed, not being a garden, orchard, provision-ground, or cane, coffee, or pimento-field," and renders the offender liable on summary

conviction to imprisonment with hard labour for two months, and makes a second offence felony, to be punishable as for simple larceny.

By Law 4 of 1872, the power possessed by Circuit Court judges of imposing a sentence of whipping or flogging was extended to District Court judges.

Although by this Law the Legislature enabled the Courts to inflict the severer punishment of flogging on offenders, two years later a more lenient treatment appears to have been considered desirable; for by Law 12 of that year the justices were empowered for a first offence to imprison the offender with or without hard labour for two months, or to fine up to £5, and in default of payment to imprisonment up to two months or until payment.

Principal Law on the Subject.—The whole subject was reconsidered in 1877, and fresh provision made by Law 6 of that year.

By s. 4 of that Law, stealing "any tree, plant, root, fruit, or any other vegetable production growing in any garden, orchard, provision-ground, whether the same be enclosed or not, or cane, or coffee, or pimento-field, or other land appropriated to cultivation," where the value exceeds £5 is made felony, and the offender liable to punishment as for simple larceny, and if a male, to whipping.

S. 5 deals with the same offence where the value is under £5, and provides a punishment of six months' imprisonment with hard labour, and (or) also whipping.[1]

SS. 6, 7, and 8 dealt with the offence described already in s. 4 of 28 Vict., c. 4, and provided that where the value of the articles stolen exceeded £20, the offender should be guilty of felony and punishable as for simple larceny, and where the value was under £20, the offender should be liable to imprisonment with hard labour for six months, a second offence being made felony and the offender punishable as for simple larceny and (or) with whipping.

This Law further gave special powers of search for stolen produce to constables authorised to that end in writing by an inspector of police.

In spite of various attempts on the part of the Legislature to amend and make the Law more effective, and except for the amendment made by Law 27 of 1888, the Law of 1877 has continued as the principal Law regulating prosecutions for prædial larceny.

Law 27 of 1888 merely cleared up an obscurity in the wording of the principal Law by enacting that the provisions of Law 6 of 1877 should apply to any tree, etc., mentioned in the said Law or to the root or any other part of any such tree, etc., "that is in or attached to the soil in any land although the same may not be growing in such land as in the said Law mentioned, in the same way as if the same were growing in such land as aforesaid."

[1] The power to inflict whipping for this crime was taken away later by Law 19 of 1887, s. 5.

One other Law on this subject exists on the Statute Book of the Colony—namely, Law 15 of 1890, under which the accused was made a competent but not a compellable witness, and provides to this effect:—

> Any person found in possession of any article of agricultural produce in the schedule to this Law, under circumstances which afford reasonable grounds for suspecting that such possession is not lawful, may be arrested by any constable or rural headman, and taken forthwith before the nearest magistrate; and the refusal or inability of such person arrested as aforesaid to satisfy the magistrate that his possession of the article in question is lawful shall be deemed *prima facie* evidence of larceny.

The obvious difficulties and inconvenience of strictly carrying out the procedure laid down in this enactment have to all intents and purposes rendered it a dead letter.

In 1896 and 1901 the Legislature introduced and passed further Laws on the subject, but as they have both been disallowed by the Secretary of State, it is unnecessary to say more about them here than that both enactments proposed to give wider powers of arrest in cases where persons were found in possession of agricultural produce under suspicious circumstances, and the onus of proving that such possession was lawful was placed on the accused. Under the latter Law the punishments that the Courts were empowered to impose were made more severe, and whipping or flogging might be ordered even for a first offence.

Over-Severity of the Law.—After reading how the Legislature in Jamaica has dealt with the matter, one would hardly think that the pains and penalties provided by the Law err on the side of leniency. In my opinion the very severity of the punishment directed to be imposed has largely tended to deter persons from having recourse to its provisions, and has failed to check the growth of the crime. In proof of the latter of these opinions I might refer to the returns of this crime in the parish of Westmoreland, where it is well known the resident magistrate deals most severely with offenders of this class. For the last three years the convictions for this crime have been as follows: For 1899-1900, 47; for 1900-1, 76; and for 1901-2, 105. Still, there is no doubt that there are many persons in the Island who assert that the punishment of such offenders should be made more severe, and claim that flogging, and flogging alone, should be the invariable punishment. To such persons, apart from the fact that all enlightened public opinion is against this form of punishment, it should be a sufficient answer to point out that a large proportion of the offenders consists of women and sickly persons who cannot be so punished. There is a further section of the community who, in their indignation against such criminals, and having regard to an alleged difficulty in identifying the articles found in the possession of an accused with those alleged to be stolen, go so far as to urge that any person should be authorised to arrest persons

whom they suspect to be in possession of stolen produce, and that persons so arrested should be deemed to be guilty until they can establish their innocence. Even if such a course was not in direct opposition to the traditions and first principles of English law, it would be a peculiarly dangerous innovation to make in a country where the bulk of the population is so uncivilised as is the case in Jamaica. Personally, I have experienced no difficulty in obtaining convictions for this crime which is not present in the case of other similar crimes; nor do I think it would be practicable, in view of the limited numbers of the police force, to provide greater facilities for the discovery and detection of this crime than already exist for this purpose. At any rate, I am strongly of opinion, under present social conditions, that the introduction of indiscriminate powers of arrest of suspected offenders would prove to be a remedy far worse than the disease.

How far the conditions in other West Indian Islands are favourable to the increase of this crime, I cannot say, but there can be little doubt that it exists, and that for its suppression special legislation has been passed. When the Law which was passed by the Legislative Council in 1901, and has since been disallowed, was being discussed in the Council, it was asserted by those who advocated the flogging clauses of the Bill that in British Guiana, where the like punishment was in force, the number of cases had been largely reduced. I have no means of testing the truth of this assertion, but I submit that the reduction may be equally due to the fact that the offenders in that Colony may also be punished by fine.

Treatment of the Crime in other West Indian Colonies.—By way of comparison it may be useful in concluding this paper to point out shortly how the Legislatures in the other principal West Indian Colonies have treated the subject.

—— **British Guiana.**—In British Guiana the crime is treated as one punishable on summary conviction—and ss. 77 and 79 of Ordinance 17 of 1893 contain the law on the subject. S. 77 enacts that a person who steals "cocoa, coffee, plantains, bananas, yams, tannias, cassava, or sweet potatoes, growing in any land, whether open or enclosed, not being a garden," etc., shall be liable for a first offence to a fine not exceeding twenty-five dollars or one month's imprisonment and to whipping or flogging, and for a second offence to six months' imprisonment and whipping or flogging. S. 79 provides that any person stealing "fruit or any cultivated root or plant other than any mentioned in s. 77, used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, whether open or enclosed, not being a garden," etc., shall be liable to a fine not exceeding five dollars or one month's imprisonment, and for a second offence to six months' imprisonment.

—— **Trinidad.**—In Trinidad the tendency has been to make the punishment for this offence more severe. By Ordinance 11 of 1842, s. 1, the law of that Colony as regards larceny was assimilated to that of England, but

special provision was made by s. 42 for this crime to the following effect: "If any person shall steal . . . any sugar-cane, cocoa-tree, or coffee-tree, or any cultivated root or plant used for the food of man or beast or for medicine, or dyeing, or for distilling, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden," etc., the offender for a first offence was to be liable to one month's imprisonment, "or else shall forfeit and pay over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding £1 as to the justices shall seem meet," and for a second offence to six months' imprisonment. In 1867 a second offence under the lastly recited section rendered the offender liable to whipping or flogging (see Ordinance 1 of 1867). In 1886, by Ordinance 22, these provisions were repealed, and the offences therein mentioned, whatever the value of the article stolen might be, and whether the land on which the same was at the time growing or in course of cultivation, was open or enclosed, were constituted felonies, and the offenders rendered liable to twelve months' imprisonment with hard labour and (or) to be privately whipped; and for a second offence made punishable as for simple larceny.

—— **Grenada.**—In Grenada the recently introduced Criminal Code starts with abolishing the distinction preserved by English law as regards the theft of things savouring of the realty, and by s. 36 by way of definition states that "stealing may be committed in respect of anything, whether living or dead, and whether fixed to the soil or to any building or fixture, or not so fixed," etc. Later, by s. 97 this Law enacts that "whoever steals anything the value of which does not exceed £5 . . . shall be liable to imprisonment for three months," and by s. 98 "whoever steals any cultivated tree, plant, root, or fruit from the field, garden, building, or other similar place where the same is grown, or any tree, plant, root, or fruit growing, or being in any land appropriated to cultivation, shall be liable to imprisonment for three months, and in the discretion of the Court to flogging or whipping." Special legislation, however, has been passed for the protection of the staple industry of this Island against offences of this kind, in the shape of the Cocoa and Nutmegs Ordinance, No. 21 of 1896. Under s. 18 of this Ordinance, any justice of the peace, revenue officer, or constable may "stop any person carrying or conveying or in charge of cocoa or nutmegs suspected to have been stolen, or unlawfully obtained, and require him to give a full and satisfactory account of the same; and if he refuses or is unable to give an account which shall satisfy the officer, the officer may seize the cocoa or nutmegs, and the person may be brought before a magistrate, and charged with having in his possession or conveying cocoa or nutmegs reasonably suspected of having been stolen, or unlawfully obtained; and if he does not give an account to the satisfaction of the magistrate as to how he came by the same, he shall be liable" to a fine of £20, and the cocoa or nutmegs may be ordered to be returned to the owner or forfeited.

—— **Barbados.**—Barbados seems to have passed no legislation specially relating to this crime, which would seem to suggest that there it is of no very frequent occurrence.

In Jamaica and the other Colonies to which reference has been made, there are enactments making it an offence to be in the possession of articles alleged to be stolen or unlawfully obtained, where the person so in possession cannot satisfactorily account to the Court for his possession; but those contained in the Grenada Criminal Code are perhaps the most comprehensive and useful.

Degrees of Criminality: Starving Women and Children.—It remains only to consider by the experience of the results of past legislation in Jamaica, and by the light afforded by the action taken in other West Indian Colonies, how best the law in Jamaica can be amended to suppress—or at least check—this growing evil. In reflecting how this may best be done, it must be remembered that the degree of criminality attaching to this crime varies very considerably. It may be, and very often is, committed by some child or woman, left or abandoned by their natural protectors, as a means of staving off starvation; on the other hand, the offender may be some idle able-bodied male adult who prefers to live on the results of the exertions of his more industrious neighbour. In view of this it seems expedient that the Courts should be given a wide discretion as to the form of punishment to be inflicted. Where, also, the offenders and the persons who suffer by such offenders' acts alike come from the same class, as they may be said to do in Jamaica, it is necessary to make sure that the nature of the punishment should be consonant with the sentiments of that class. If it is more severe than persons of that class think should be inflicted, they will shrink from appealing to the Courts to enforce it, and many offenders will either go unpunished altogether, or be forced to come to some uncertain and irregular arrangement with the persons whose property they have purloined. On the other hand, the Law should not deal with the offence so leniently as to inspire persons with a contempt for its provisions, and thus encourage the willing thief in his career. The policy of the Lord High Chancellor in *The Mikado* in making the punishment fit the crime is nowhere more necessary than in this instance. I venture to submit that the Legislature should aim at ensuring that, as far as possible, every prædial thief should be brought before the Courts for punishment, and that the punishment should be instructive and deterrent against a repetition of the offence by the offender, rather than vindictive.

Impolicy of Vindictive Punishments.—Vindictive punishments, such as long terms of imprisonment or flogging, as may be gathered from my previous remarks, are not, I think, calculated to improve an offender; and the former method, at any rate, has this further disadvantage—that it can only be inflicted at a cost to the taxpayer out of all proportion to the value of the injury caused by the offender's depredations. The real pest of the community

—the man who makes an idle, dishonest living at the expense of his neighbours—is generally too clever to allow himself to be caught. Usually it is, so to speak, the comparatively innocent thief—the first offender—who, in his inexperience, is surprised in the act; and in such cases, where the value of the property stolen usually does not exceed a few pence, it seems absurd to saddle the taxpayer with the cost of keeping the offender in prison for many months, with the probable result of converting him into an habitual criminal.

It has always seemed to me that in the case of a first offender of this class, the Court ought to have power to impose such a punishment as will make it clear to the meanest capacity (and the majority of prædial thieves have the lowest intellectual powers) that to repeat such an act will be against his own interests. Of course, in the case of the hardened criminal—and the habitual criminal, I fear, will long exist as a living evidence of the failure of our penal law to reform offenders—these reasons have no application, and having regard to the greatness of the damage suffered in such cases, the cost of their long imprisonment may justifiably be incurred, or in cases of special audacity or cruelty even flogging be resorted to. Such cases are and always will be exceptional, and require exceptional treatment. But by far the larger number of offenders will be first offenders, and a great end will be attained if, by their punishment, they can be taught the old principle that "honesty is the best policy," and deterred from repeating their offence. This lesson, I submit, might be taught by giving additional powers to the magistrates enabling them to order a fine not exceeding £5 for such offences, together with fair compensation to the person who has suffered by the theft, and to give such reasonable time for payment of these amounts as will enable the offender to work and earn sufficient to pay them. The magistrates may, I think, be trusted to exercise such powers with discretion; for it is obvious that the indiscriminate use of them, where the offender is a stranger in the district or notoriously unlikely to attempt to pay such a fine, would only afford a criminal an opportunity of evading his punishment. But in Jamaica, where agricultural labour is always in demand, the prædial thief, if he so wishes, can in most cases work out such a fine and compensation by giving his services to the person whose produce he has stolen. The lesson might also be further brought home to the intelligence of the people by making parents or guardians responsible for the deeds of the young persons for whom they are morally responsible. This might be effected by making such persons jointly liable to pay the money penalties imposed on juvenile offenders, or to go to prison in default, unless they can satisfy the Court that they have done all that lies in their power to prevent the commission of such crimes. The enforcement of parental responsibility in this way has been, I believe, tried with success in other places; and nowhere is the lesson more required than by the negro race in Jamaica.

While unfortunately I feel that, under the existing social conditions of Jamaica, there will for a long time to come be a tempting field for the enterprise

of the prædial thief, I believe if, while retaining the existing powers of imprisonment and flogging for exceptional cases, the Courts are given the additional powers which I have ventured to suggest, the magistrates will take advantage of this wide latitude in the selection of punishments to pass such sentences in particular cases as will in time impress the rising generation with the conviction that it is to their interests to obtain what they need by honest toil, rather than by the exercise of their thievish propensities.

NOTES ON A PROPOSED GENERAL TREATY.

[*Contributed by* MONTAGUE CRACKANTHORPE, ESQ., K.C.]

THE efforts made by Mr. Thomas Barclay during the last two years to bring before the public, both in England and France, a scheme for drawing those two countries more closely together, and rendering war between them well-nigh impossible, are worthy of all praise. Having first ventilated the project in Paris at a meeting of the French Arbitration Society, of which the venerable M. Frédéric Passy was Chairman, Mr. Barclay introduced it to the English intellectual world, in June 1901, by an article in the *Fortnightly Review*. He has since, by his personal exertions, procured resolutions in its favour from the following: the British Chamber of Commerce in Paris (of which he was formerly President), the French Chamber of Commerce in London, nineteen Chambers of Commerce scattered throughout France, the English Association of Chambers of Commerce (comprising about seventy-four distinct bodies), twenty-four associations of English working men, eighteen English and French Peace Societies. This is, indeed, a goodly harvest of approbation on both sides of the Channel. The time has now come for examining the scheme from a historical point of view, and for considering what practical difficulties (if any) it presents.

Mr. Barclay's proposal is to take the Anglo-American Treaty, signed, in January 1897, by Lord Pauncefote and Mr. Senator Olney, as the basis of a treaty between Great Britain and France, with such modifications as the altered circumstances require. As is well known, that treaty proved abortive for want of ratification by the Senate of the United States. It will be well to enquire why.

The great merit of the treaty of 1897, according to Mr. Barclay, was that all matters likely to give rise to war were to be referred to subjects of the respective parties in difference, and not to outsiders, "to whom no State would," he says, "care to entrust a national question." In order fully to appreciate this remark it is necessary to bear in mind the various methods of constituting a tribunal for the settlement of international disputes. Such a tribunal may be formed in one of two ways: (1) a single person, or group of persons, may be chosen with the common consent of the

parties between whom the dispute has arisen; (2) each party may choose his own representative or representatives independently of the other. In the first case, the persons chosen are usually of a different nationality from that of either party. Whether it consists of one or more, the authority is a single one, incapable of being divided against itself, and, therefore, requiring no umpire. In the second case, each party chooses its own representatives independently of the other party. This case will be considered presently.

The following are some of the instances, in recent times, of individuals appointed as sole arbitrators by common consent: The King of the Netherlands, by France and Spain, in 1851; Louis Napoleon (then President of the French Republic), by the United States and Portugal, in the same year; the King of the Belgians, by the United States and Chili, in 1858; the President of Chili, by Great Britain and the Argentine Republic, in 1864; the Emperor of Russia, by Japan and Peru, in 1872; Sir Edmund Monson, British Ambassador at Athens, by the United States and Denmark, in 1888; the President of the Swiss Federal Supreme Court of Justice, by Bolivia and Chili, in 1893. The following are some of the instances of groups or bodies of persons appointed as sole arbitrators by common consent: The Senate of Hamburg, by Great Britain and Portugal, in 1855 and 1861; the same Senate, by Great Britain and Peru, in 1864; the French Court of Cassation, by France and Nicaragua, in 1879.

The subject-matters of all the arbitrations just mentioned were pecuniary claims for damages, some being of a purely commercial character, others arising out of alleged illegal seizures of ships or men.

When each party chooses its own representatives, the tribunal so formed is styled a "Mixed Commission." Such tribunals have been largely employed to settle claims of non-combatants in respect of losses occasioned by war or insurrection and alleged breaches of neutrality. Here the States intervene—or at all events one of them does—for the protection of their own subjects. Recent instances of Mixed Commissions formed to settle pecuniary claims are: those appointed by Great Britain and the United States in 1853; the United States and Mexico in 1868; the United States and Spain in 1871; Great Britain and the United States in the same year (the case of the *Alabama* and other vessels); the United States and Colombia in 1874; the United States and France in 1880; France and Chili in 1882; the United States and Venezuela in 1890.

Mixed Commissions have also been frequently employed to settle disputed boundaries, the arbitrating States here acting not in their representative character, but on their own account. The most conspicuous instances are the Commission appointed in 1892 by Great Britain and the United States to settle the dispute as to the seal fisheries in the Behring Sea, and that appointed in 1897 by Great Britain and Venezuela to define the Venezuelan frontier. In the Behring Sea case, the commissioners were, for Great

Britain, Lord Hannen and Sir John Thompson; for the United States, Mr. Justice Harlan, of the Supreme Court, and Senator John Morgan. To these were added three more commissioners, not of the nationality of either party, nominated by the President of the French Republic, the King of Italy, and the King of Norway and Sweden respectively. In the Venezuela case, all the commissioners without exception were legal experts, those for Great Britain being Lord Herschell (replaced, on his death, by Lord Russell of Killowen) and Sir Richard Henn Collins, the present Master of the Rolls; for the United States, Chief Justice Fuller and Mr. Justice Brewer, both of the Supreme Court.

The number of the original members of a Mixed Commission is, of course, always even, as each party names its own quota; and these quotas are equal. It is therefore necessary to provide for the appointment of an umpire or additional member, who is usually selected by the original members, but sometimes by an independent foreign Power. In the Venezuela case, the four commissioners appointed as their colleague the well-known international jurist, Professor de Martens, Privy Councillor of Russia.

The trend of modern practice has been to resort to a Mixed Commission rather than to a sole arbitrator. Few Governments would be content nowadays to refer important questions to sovereign Powers, who, of course, only act by deputies selected by their Ministers' advice. In fact, the procedure with regard to these questions has been gradually assimilated to that of a private *lis*. This is an immense gain to the cause of peace.

I now pass on to consider the terms of the Anglo-American treaty in detail. The subjects comprised in it are mainly two—viz. (1) pecuniary claims, or groups of claims; (2) claims territorial, including fisheries, rights of navigation and access, and all other matters incidental thereto. The tribunal to be constituted for the settlement of pecuniary claims depends on their amount. If less than £100,000, each contracting party is to nominate a jurist of repute, and the two arbitrators so nominated are to select a third as president of the tribunal. The award of the majority is to be final (Art. 3). If the claims exceed £100,000, they are to be referred to a tribunal similarly constituted, but in this case the award is not to be final unless the members are unanimous. If they disagree, either party may demand a review of the award within six months. In that event, the matter in controversy is to be submitted to a tribunal consisting of five jurists, no one of whom may be a member of the original tribunal. These five jurists are to be nominated as follows: two by each of the contracting parties, and the fifth (to act as umpire) by the other four, or, if they cannot agree, by the King of Sweden and Norway. The umpire is to act as president of the tribunal, and the award of the majority is to be final (Arts. 4 and 5).

Territorial claims are dealt with by

ART. 6.—Any controversy which shall involve the determination of territorial claims shall be submitted to a Tribunal composed of six members, three of whom [subject to a provision which for our present purpose is immaterial] shall be Judges of the British Supreme Court of Judicature or members of the Judicial Committee of the Privy Council to be nominated by His Britannic Majesty, and the other three of whom shall be Judges of the Supreme Court of the United States or Justices of the Circuit Courts to be nominated by the President of the United States, whose Award, by a majority of not less than five to one, shall be final. In case of an Award made by less than the prescribed majority, the Award shall also be final unless either Power shall, within three months after the Award has been reported, protest that the same is erroneous, in which case the Award shall be of no validity.

In the event of an Award being made by less than the prescribed majority, and protested as above provided, or if the members of the Arbitral Tribunal shall be equally divided, there shall be no recourse to hostile measures of any description until the mediation of one or more friendly Powers has been invited by one or both of the High Contracting Parties.

Here the choice of members of the tribunal is, it will be observed, a more limited one. Not only is the nationality of the two sets of commissioners prescribed, but also their qualification. That judges of any Supreme Court should be diverted from their proper business and have international work assigned to them is, to say the least, of doubtful expediency. At all events, it would be well that where they are required to settle disputed boundaries they should have associated with them one or more experts in surveying, either military or civil. This was done in the case of the long-standing boundary dispute between Chili and Argentina, settled nominally last November by the award of King Edward VII., but really by a lord of Appeal and two officers of Engineers.

Down to this point the Anglo-American Treaty is plain sailing enough, but we now reach the *crux* of the position. How are questions which cannot be described either as pecuniary or territorial to be dealt with? The answer, in so far as it is furnished at all, is to be gathered from

ART. 7.—Objections to the jurisdiction of an Arbitral Tribunal constituted under this Treaty shall not be taken except as provided in this Article.

If, before the close of the hearing upon a claim submitted to an Arbitral Tribunal constituted under Article 3 or Article 5, either of the High Contracting Parties shall move such Tribunal to decide, and thereupon it shall decide, that the determination of such claim necessarily involves the decision of a disputed question of principle of grave general importance affecting the national rights of such Party, as distinguished from the private rights whereof it is merely the international representative, the jurisdiction of such Arbitral Tribunal over such claim shall cease, and the same shall be dealt with by arbitration under Article 6.

The interesting question is, What is the class of cases here contemplated? Even when the range of matters proper to be submitted to arbitration is

assumed to be unlimited, there is a general consensus of opinion that some limitation there must be. As I have said elsewhere, Bluntschli, Rouard de Card, Goldschmidt, Kamarowski, Ferdinand Dreyfus, Michel Revon, all exclude questions of national independence, and some of them also exclude questions of national honour and of territorial integrity.[1] The same class of matters seem to be excluded by the Anglo-American Treaty, for "questions of principle of grave general importance affecting the natural rights of the contracting parties" are, it will have been seen, only to be dealt with in connection with the pecuniary claims in which they are involved. In other words, it is not these natural rights themselves, but the claims involving them, that are to be disposed of under Art. 6. This being so, the statement in Article 1 of the treaty that subject to the limitations therein contained—limitations which are nowhere clearly explained—"the High Contracting Parties agree to submit to arbitration all questions in difference between them which they may fail to adjust by diplomatic negotiation" is as enigmatic as an utterance of the Delphic Oracle.

But even the cautious reservation in Article 7 failed to satisfy the American Legislature. The Committee on Foreign Relations, to which it was referred, reported in favour of three amendments. The first amendment required that an agreement to submit should, before it became final, be communicated in each case to the Senate by the President, and be concurred in by two-thirds of the senators present, as well as by the other High Contracting Party. The second substituted "jurists of repute" for "Supreme Court Judges." The third—a comparatively minor one—had reference to the appointment of an umpire. The Senate adopted all these amendments, and added others of their own motion. In the result the treaty was rejected by 43 votes to 26.

Considering that the United States Government has been a party to nearly two-thirds of the arbitrations that have taken place during the last century, it cannot be said to be hostile to that mode of settlement. And the refusal of the Senate to part, by anticipation, with their constitutional right of veto is significant of the reluctance felt by that body to entrust the solution of disputes of grave general importance to any tribunal, however fairly composed, in ignorance of what the precise dispute may be. It does not seem likely that President Loubet's Cabinet, or either of the French Chambers, would be less sensitive on this head, having regard to the delicacy and difficulty of the questions that may possibly arise in future between France and England, particularly in regard to Colonial expansion in Africa and elsewhere.

As a matter of fact, the only conventions between States which have stipulated prospectively for the settlement by arbitration of all differences without exception, are those of the United States with Mexico (1848); of

[1] *Encycl. Brit.* (10th ed.), vol. xxv.: Arbitration (International).

Belgium with Hawaii and Siam (1862 and 1868), and again with Venezuela (1884) and Ecuador (1887); of Switzerland with San Salvador and Ecuador (1887); of Spain with Honduras and Colombia (1894); of Italy with the Argentine Republic (1898); and Chili with the Argentine Republic (1902). But in each of these cases one of the contracting parties was greatly inferior in strength to the other contracting party, and war between the two must have had but one result.

It has been urged against the proposed Anglo-French Treaty that it is at variance with the spirit of the Hague Convention of 1899. The objection is not without weight. Article 21 of the convention, as communicated to Lord Salisbury by Lord Pauncefote, in July 1899, runs thus :—

> La Cour Permanente sera compétente pour tous les cas d'arbitrage à moins qu'il n'y ait entente entre les parties pour l'etablissement d'une juridiction spéciale.

Now if this were all, the choice of a tribunal would seem to be left perfectly free; but M. le Chevalier Descamps, in his admirable report to the Peace Conference, says with regard to this article: "It was proposed by the Russian delegates with a view of making clear two points: (1) The general competence of the Hague Court to deal with every case admitting of arbitration, whether the parties had or had not bound themselves so to treat them; (2) the liberty reserved by the Powers to constitute special tribunals distinct from the Court. The Comte de Macedo (delegate from Portugal) suggested, in this connection, the adoption of a clause declaring that the signatory Powers had agreed to prefer the jurisdiction of the Permanent Court to every other special jurisdiction whenever circumstances permitted. This clause was very favourably received. If it was not inserted in the convention, this was partly because it was thought desirable to avoid bringing direct pressure to bear on the free action of the Powers, *partly because it was thought that the solemn declaration in Article 21 of the general competence of the Permanent Court sufficiently indicated what the desire of the Powers was.*"

The criticisms just made on Mr. Barclay's proposal, whether well founded or not, cannot in any degree detract from the estimation in which his labours ought to be held. Attention has been called to the obstacles that lie in his path in the hope that they may be found to be removable. Everything written, spoken, or petitioned for in favour of international arbitration is so much to the good. The cause of Peace requires vigorous personal backing such as Cobden and Bright gave to Free Trade. Nor have its advocates striven in vain. Wherever the war-clouds threaten, Arbitration now lifts up her voice, and seeks to get a hearing. It was so in the Transvaal in 1899; it is so in Venezuela in 1902. Whilst I am penning these lines, the news arrives that the blockade of the Venezuelan coast will shortly be raised, and the claims of Great Britain, Germany, and Italy referred, at President Roosevelt's suggestion, to the Permanent Court at the Hague.

This turn of events is an excellent omen for the future and furnishes another proof that the advance of international arbitration, as a substitute for armed force, is assured. Only a few weeks ago a branch of the Hague Court disposed with complete success of the long-standing dispute between the United States and the Mexican Republic, with regard to "The Pious Fund of the Californias."[1] Is it too much to expect that this same Court, although it has at present only an ideal existence, and although fresh branches of it have to be formed to deal with each fresh case as it arises, will in course of time be called so frequently into requisition as to become endowed with a sort of organic life? If this point is once reached, arbitration between States will have become so general as not to require a General Treaty to support it.

[1] As this arbitration was the first of what it is hoped will prove a long series, a short account of the proceedings may be of interest. What follows is taken from the American Official Report, for a copy of which (a volume of over 800 pages) I am indebted to the courtesy of Sir Edward Fry. The "Pious Fund of the Californias" was formed in the eighteenth century for the purpose of converting to the Catholic faith the native Indians of Upper and Lower California, both of which then belonged to Mexico, and of maintaining a Catholic priesthood there. The Fund, which was considerable, was transferred to the Public Treasury of Mexico by a decree of October 14th, 1842, the Mexican Government undertaking to pay interest thereon in perpetuity in furtherance of the design of the original donors. After the sale of Upper California to the United States, effected by the Treaty of Guadelupe Hidalgo of February 2nd, 1848, the Mexican Government refused to pay the proportion of the interest to which Upper California was entitled. The question of liability was then referred to Commissioners appointed by each State, and, on their failing to agree, to Sir Edward Thornton, British Minister at Washington, who by his award, dated November 11th, 1875, found there was due from Mexico to Upper California, or rather to the bishops there as administrators of the Fund, an arrear of interest amounting to nearly $100,000, which was directed to be paid in gold. This award was carried out, but payment of the current interest was again withheld as from October 24th, 1868. Claim was thereupon made on Mexico by the United States on behalf of the bishops, but without success. Ultimately, on May 22nd, 1902, an agreement was come to between the two Governments which provided for the settlement of the dispute by a tribunal to be constituted in conformity with the Peace Convention of 1899. This tribunal was empowered to determine (1) whether the matter was *res judicata* by reason of Sir E. Thornton's award; (2) whether, if not, the claim for the interest was just. The arbitrators selected by the United States were Sir E. Fry and Prof. de Martens, of St. Petersburg; and by Mexico, Prof. Asser and Prof. de Savorin-Lohman, both of Amsterdam. These four (none of whom, it will be observed, was of the nationality of either party in difference) chose for their umpire (*sur-arbitre*) Prof. Matzen, of Copenhagen, President of the Landsthing there. The Court decided both questions in the affirmative, awarding the payment by Mexico of the annual sum claimed, not in gold, but "*en monnaie ayant cours légal au Mexique*." Although the award of 1875 was *chose jugée*, the direction to pay in gold was held to be referable only to the mode of the execution of the award, and not an integral part of the matter then adjudicated on. The Court sat on nineteen days, and was addressed both in English and French, according to the nationality of the counsel engaged. The pleadings were in the form of case, countercase, and replication. Following the American practice, counsel delivered written argumentative "briefs," which they supplemented by word of mouth.—[M.C.]

INTERNATIONAL MARITIME COMMITTEE—HAMBURG CONFERENCE.

[*Contributed by* T. G. Carver, Esq., K.C.]

Business of the Conference.—The main business of this Conference was the approval and adoption of two drafts of proposed treaties, in relation to collision law and salvage law. Having done that, it was proposed to discuss the principles which should govern the "competence" of tribunals in collision actions; and, secondly, privileged claims against a ship, and their order of priority. The Conference satisfactorily accomplished their objects, except the last. That stands over to the future.

Uniformity by Treaty.—The draft treaties on collision and salvage had been prepared by a Commission, presided over by Lord Alverstone, which was appointed at Paris in 1900, to give shape to resolutions adopted at conferences in Antwerp 1898, London 1899, and Paris 1900. The scheme by which the Commission sought to give practical effect to the resolutions is indicated by the following extract from their report:—

> The Commission first decided to put the drafts in the form of treaties which Governments would cause to be examined by diplomatic conferences, and which the competent authorities in each country would have to ratify and enter in the Statute Books. This appeared to be the only possible method of arriving at speedy results, without incurring the risk of delays and amendments which would deprive the reform of its international character. This course was successfully followed in handling other subjects, especially the fishery regulations in the North Sea, the railways, postal and telegraph service, industrial property, authors' rights, etc. There is, therefore, no reason to suppose that it cannot successfully lead to the unification of the law as to collisions and salvage. As the treaty may be rescinded at short notice, the legislative independence of each country would be fully protected, but it is fair to assume that the equitable character of the proposed rules will carry their own recommendation and that the advantages of uniformity will suffice to ensure their permanent retention.

Collision Law.—The provisions of the proposed treaty on collisions at sea, if they became law in the various maritime States, would put an end to a number of conflicts in the laws on that subject. Thus it would get rid of the special rules found in some of the codes as to collisions with

ships at anchor; also of the rule, in certain codes, that the damages must be equally divided, in cases where the collision cannot be shown to be the fault of either ship. It proposes that where a collision is due to inevitable accident, or is without fault, or if the fault causing it is "inscrutable," the losses shall lie as they fall. This agrees with the English rule.

Apportionment of Losses.—But the more interesting conflict which the treaty would get rid of is that as to the mode of apportioning the losses where both ships are to blame for a collision. In such a case the English rule is to divide the losses equally. Each ship bears one-half of the loss sustained by the other, and receives one-half of her own loss from the other. But in France, Germany, Belgium, Denmark, Norway, or Sweden, the law would require the Court to consider the degree of blame attributable to each ship, and to apportion the losses between them accordingly. This is done, not with any very nice attempt at accuracy, but by making one ship bear, say, two-thirds or three-quarters of the total losses. The effect is that when one ship has been seriously in fault, while the other has committed only a slight error, which has probably had little effect in bringing about the collision, the results of an action differ according to whether the case is tried on one side of the English Channel or the other.

In the discussions and resolutions on this point, the Continental rule has been approved almost without dissent; and the treaty would give effect to it by providing as follows:—

ART. 4.—If there is a common fault, the responsibility of each of the vessels is proportionate to the gravity of her fault. All losses caused either to the vessels or to their cargoes, or to the crews, passengers, or other persons on board the ship are divided between the vessels in the same proportion, the liability not being joint. The vessel sued by virtue of a contract of affreightment or carriage can, by proving the fault and degree of fault of the other vessel, free itself proportionately from the liability under which it lies under the contract, subject to the clauses and conditions of same.

Measure of Damages.—The treaty, again, would abolish certain differences of law with respect to the measure of damages. It follows the English rule, giving compensation for loss of profits, and detention of the ship during repairs, as well as the cost of repairs.

Compulsory Pilotage.—Also it would put an end to the conflict as to the defence of compulsory pilotage. It provides, contrary to the English rule, that "the fact that the collision has been caused by the fault of a pilot whose employment is compulsory, presents no obstacle to the liability of the ship."

Standing By.—Further, the treaty proposes to abrogate the presumption of fault, causing the collision, which arises under the English Merchant Shipping Act, 1894 (s. 422), when the master of one ship has without reasonable cause failed to render assistance to the other, or to stay by

her "until he has ascertained that she has no need of further assistance." This presumption in English law is punitive, and it is felt that civil rights should not be altered by a fiction, for the purpose of punishment. The penal consequences should be distinct.

Salvage Law.—The proposed treaty on salvage law deals with a subject on which, comparatively, there is little conflict of law. But it would get rid of a distinction in French law between salvage of things found afloat or sunk, and assistance to a ship cast on shore; and would abolish all hard-and-fast rules as to a salvor receiving a fixed proportion of the salved values. In the case of a derelict, the French Code (Art. 191) gives the salvor one-third of the value in all cases.

Limitation of Liability.—Reverting to the collision treaty, the most conspicuous fact about it was that it was silent on the question of the limitation of liability of shipowners. That is the most serious of the existing divergences of law, and has been a prominent subject at each of the conferences of the International Maritime Committee. It is the matter of chief importance to British shipowners, whose position under the present conflict between our own and foreign laws is undoubtedly not a fair one. At the same time, the proposed solution of the difficulty, giving in to the Continental rule, which was adopted by resolutions at London and at Paris, is not at all likely to commend itself to a British Government, or to a British Legislature. It would involve exemption from liability of the shipowner whose servants have negligently caused the collision, if his own ship has been lost. And where that has not happened, it would limit his liability for the damage to the value of his ship and freight, in whatever condition she may be after the collision, and subject to prior claims upon her. When we remember that nowadays a shipowner is not commonly ruined by the loss of his ship, and that indeed he is not (owing to the practice of insurance) usually the real sufferer by that, it is difficult to find any sufficient ground of policy for thus relieving him of his obligations.

The Conference of London, however, resolved, by a majority, that the shipowner's liability should be limited to the value of the ship and freight, after the collision; or, at the shipowner's option, to an amount bearing some fixed proportion to the ship's tonnage. And at Paris it was further resolved that this limitation should apply to collisions with quays or other fixed objects; and also to breaches of contract, where the performance of the contract was part of the master's functions, whether the breach has been due to a member of the crew or not, except in case of personal fault of the shipowner.

The resolutions do not express that this limitation of liability is to be a limitation of the total liability of the shipowner for all of these matters; but, having regard to the character of the existing methods of limitation, it is evident that that is the meaning. So that the claimant for collision damage would be in competition with other claimants against the ship. That means, in Continental Europe, that he would practically come last,

after creditors for wages, or for necessaries supplied to the ship, or for breaches of contracts of carriage.

In view, no doubt, of the difficulty which must attend any attempt to change the law in England in this sense, Lord Alverstone at Paris proposed that the work of the Commission then appointed should not include this subject; and so the draft treaty had no proposition upon limitation of liability.

But to the minds of Sir John Glover and Mr. T. V. S. Angier, who spoke at Hamburg for shipowners, this was a serious going back from the position already gained. They were not content with action which ignored the resolutions chiefly important to them. On the other hand, it was urged with no less force, that the practicable steps should be taken first, and the more difficult left for another effort. Ultimately it was agreed that the proposed treaty should be pressed on as it stood; but that the Codifying Commission should be instructed to prepare a further draft dealing with the limitation resolutions. Sir Walter Phillimore, who had been a member of the old Commission, thereupon said that the Commission to deal with this matter must be a new one. He was not willing to serve; and it was not likely that Lord Alverstone would do so. A new Commission is therefore to be appointed. Meantime, the attempt to make collision law uniform is not to wait. It was hoped that one of the Governments would be willing to bring the matter before the Governments of other maritime States, with a view to a diplomatic conference being held. The Government of Belgium, it is understood, has now consented to do this.

Jurisdiction of Tribunals.—The subject of competence, or jurisdiction, of tribunals in collision cases gave rise to a number of questions, and to much difference of opinion. Reports upon this new matter had been made by most of the various National Associations who are working with the International Maritime Committee as their co-ordinating centre. But each of those Associations was represented at the Conference, and the voting was by those who were present. Each nation counted as one; and its vote was that of the majority of its representatives, where they were divided.

Forum of Proceedings.—The question whether the Courts of the place in which a collision has occurred should have jurisdiction, though the ship may not be arrested there, and though the defendant be not domiciled or present there, was much debated. Sir Walter Phillimore supported M. Franck (of Antwerp) in the view that, when a collision has occurred in territorial waters, the national Courts should have jurisdiction. On the other hand, it was urged that to have too many competent tribunals is inadvisable; and that it is needless to give jurisdiction to the Courts of the place of collision, seeing that such jurisdiction ought to depend upon service of process, and so would presuppose that the defendant or the ship could be found. To the argument that the best evidence as to the collision is generally to be found at the place of its occurrence, the reply was that the best evidence for the defendant is generally on board his ship.

A vote resulted in favour of this jurisdiction by seven national votes to five. But the voting brought out in a marked manner the weakness of the constitution of the Conference. In the minority were included France, Germany, the United States, and Great Britain, each voting, almost with unanimity, by several representatives; while in the majority were included Austria-Hungary, Norway, Sweden, and Japan, each voting by one representative. It is not, therefore, surprising that it was subsequently agreed, as an instruction to the Executive Council, that they should treat the vote as preliminary only, and should bring the question up for further consideration hereafter.

Place of Ship's Registration.—Another vote was upon the question whether the Courts of the place of the defendant ship's registration should from that mere fact have jurisdiction. This was affirmed by nine votes to four, Great Britain being in the minority.

Place of Arrest.—Jurisdiction of the Courts of a place in which the defendant ship can be arrested was resisted by some of the French representatives. They urged that though such Courts should have jurisdiction for securing arrest of the ship, and preserving it, and for taking evidence, etc., the trial and disposal of the action should only be at the ship's port of registration. But the French representatives were divided on the subject, and Maître Clunet spoke strongly against the anomaly of separating the Court of the trial from that in which the preliminary steps are taken. The jurisdiction was approved. And a further proposal by Dr. Sieveking limiting it to the amount of the property arrested was negatived.

On the other hand, it was considered that a Court should not be competent merely because another ship or other property belonging to the same owner can be arrested within its territory. And there was complete agreement, except on the part of the United States representatives, that jurisdiction *in personam* founded on mere service of a writ on a defendant casually within the territorial jurisdiction ought not to be allowed. There should be either domicil or residence of the defendant within the territory at the time of service. This is contrary to the rules in force in Great Britain and the United States.

Also the view of the majority was against jurisdiction being allowed against a defendant merely because the Court is competent in an action against a co-defendant; or against insurers, or guarantors, merely because the Court is competent in an action against the assured; but it was agreed that a Court competent to try a claim should also be competent to try a counterclaim, by the defendant against the plaintiff.

These resolutions are, in the language of the president, Dr. Sieveking, to be regarded as first readings on this subject. They will come up for further consideration at a future Conference. And the subject of privileged claims against ships and their priorities, for which there was on this occasion no time, will then be considered.

The following are translations of the draft proposed treaties which have been above referred to :—

Collision Law.

Art. 1.—The high contracting parties will take steps to modify the laws of their respective States in relation to the judgment of all actions brought, after the date of its ratification, before their Courts and tribunals, in respect of a collision between sea-going ships or between a sea-going ship and a ship employed in internal navigation, so as to adopt the principles set forth in the present treaty.

Art. 2.—If the collision is without fault or due to inevitable accident, the losses fall on the interests which have suffered them without any right of compensation.

It is the same if the fault causing the collision is inscrutable.

The case where one of the vessels is at anchor is no exception to this rule.

Art. 3.—If the collision has been caused by the fault of one party only, all the losses are borne by the vessel on board of which such fault has been committed.

Art. 4.—If there is common fault, the responsibility of each of the vessels is proportionate to the gravity of her fault.

All losses caused either to the vessels or to their cargoes, or to the crews, passengers, or other persons on board the ship are divided between the vessels in the same proportion, the liability not being joint.

The vessel sued by virtue of a contract of affreightment or carriage can, by proving the fault and degree of fault of the other vessel, free itself proportionately from the liability under which it lies under the contract, subject to the clauses and conditions of same.

Art. 5.—Losses in cases of collision are to be recompensed in full. They include, especially in the measure of the actual detriment proved, the amount of the losses caused by the collision, the profits of which the injured parties are deprived, and indemnity in the nature of demurrage due to the vessels.

Art. 6.—The fact that the collision has been caused by the fault of a pilot whose employment is compulsory presents no obstacle to the liability of the ship as established by the provisions of the present treaty.

Art. 7.—The sea-going ship in tow is liable in respect to third parties for damage resulting from a collision caused by the fault of the tug in its service. This liability does not prevent the ship in tow having recourse against the ship towing in virtue of the towage contract. The tug is, on the other hand, directly liable for its faults with respect to parties injured, in conformity with the principles enunciated in the preceding articles, but it is not jointly liable for the faults of the towed ship.

Art. 8.—Every regulation making an action for collision subject to noting a protest or to special formalities is annulled.

Art. 9.—The right to bring a collision action is barred by the lapse of two years from the time of the occurrence. The laws of each country determine the causes for which this prescription is interrupted.

Action brought by the captain, even on account of his owner alone, suspends the prescription for the benefit of all parties interested in right of the ship which he commands.

Art. 10.—Ships which have been in collision are bound to afford assistance as far as circumstances permit.

The laws of each country determine the penalties to which those breaking the regulation are liable.

The owner of the ship is not liable by reason of breach of this regulation by the captain or crew, and the neglect to afford assistance does not entail a presumption of fault from the point of view of pecuniary responsibility for the collision.

ART. 11.—Subject to any further agreement as to the limitation of shipowners' liability, it is understood that when in the preceding regulations the liability of the ship is spoken of, by these words is intended the liability of the owner of the ship, or of any other person who may be responsible for the collision according to the law enforced by the Court before which the case is tried.

ART. 12.—Collisions between men-of-war and ships of the mercantile marine are not submitted to the present treaty save in so far as responsibility is admitted in this respect by the law of the particular State.

ART. 13.—The present treaty is concluded for an unlimited time, but each of the contracting parties has the right of denouncing it. Such renunciation shall only have effect after notification to the other parties. Actions brought meanwhile shall continue submitted to the treaty. It shall continue to have full effect between the parties who have not denounced it.

ART. 14.—The present convention shall not be in force until after ratification. Ratifications shall be exchanged not later than ——.

Effect shall be given to Art. 1 within one year.

After such date the treaty shall come in force between the Powers who will have complied with said Art. 1.

The accession of any Power not a signatory shall be notified to the Government of ——, which shall advise the high contracting parties within ——.

SALVAGE LAW.

ART. 1.—The high contracting parties will take steps to modify the laws of their respective States in relation to the judgment of all actions brought, after the date of its ratification, before their Courts and tribunals, in respect of salvage of a sea-going vessel or of assistance rendered to such vessel, so as to adopt the provisions set forth in the present treaty.

ART. 2.—Successful services rendered to a ship or cargo in peril gives the right to an equitable remuneration. All legislative distinction between salvage and assistance (services in the nature of salvage) is abolished.

ART. 3.—Nothing is due if the services rendered remain without useful result. In any case the sum to be paid cannot exceed the value of the salved property.

ART. 4.—Persons who have co-operated in the work of rendering assistance against the express prohibition of the captain of the ship assisted are barred from all right to indemnity and remuneration.

ART. 5.—A tug has only the right to remuneration for assistance rendered to the ship towed by her or her cargo, if she has rendered exceptional services, which cannot be considered as the fulfilment of her contract of towage.

ART. 6.—The pilot and crew of a ship in peril have no right to any remuneration even for extraordinary services, so long as they can be considered as being within the limits of their respective contracts of service.

ART. 7.—In default of express agreement concluded between the parties, the competent administrative or judicial authorities fix the remuneration, taking

into consideration *principally* the efforts and merits of those who have rendered assistance, the danger incurred by the vessel or cargo assisted by the salvors, and by the assisting vessel, the damage and expenses incurred by the assisting vessel, and the success obtained; *secondly*, the value of the salved objects and the assisting vessel.

The competent authorities shall not allow a fixed proportion of the objects salved or of their value.

ART. 8.—Every contract made in time of peril by those exposed thereto with a view of fixing the renumeration can be modified in its effect by the judge if he considers that the conditions agreed are not equitable either to one or to the other party.

ART. 9.—Nothing which is herein contained modifies the rules followed by each of the high contracting parties with reference to the competence of judicial authorities, or administrative authorities charged with deciding claims brought for salvage or assistance. Nor is anything herein contained to be considered (1) as a derogation to the legislation by which one of the high contracting parties should apply to cases other than collision the obligation to afford assistance to ships in perils, or (2) as disentitling the law of any such party from allowing salvage remuneration against ship or cargo for salvage of life. Finally, nothing herein contained is to modify the legal position of men-of-war as to salvage.

ART. 10.—The present treaty is concluded for an unlimited time, but each of the contracting parties has the right of denouncing it. Such denunciation shall only have effect after notification to the other parties. Actions brought meanwhile shall continue submitted to the treaty. It shall continue to have full effect between the parties who have not denounced it.

ART. 11.—The present convention shall not be of effect until after ratification; the ratification shall be exchanged not later than ——. Within one year following, Art. 1 shall be complied with. After this date the treaty shall come in force between the Powers who have complied with said article. The accession of every Power not a signatory shall be notified to the Government of ——, which shall advise the high contracting parties within ——.

LAND TENURE IN NORTHERN NIGERIA.

His Honour Chief Justice Gollan, of Northern Nigeria, has been good enough to permit us to publish the following :—

I.

Rough Notes on Land Tenure in the Emirate of Bida.

At the end of December, 1901, I was in Bida, and had a long conversation with Omoru, Alkali of Bida, on this subject. My questions and his replies had to be interpreted ; but in addition to two interpreters the Resident of Bida, who thoroughly understands Hausa, the language in which Omoru spoke, was present. I further endeavoured to test the accuracy of the interpretation by frequently repeating a question in a slightly modified form. I consequently think that the information contained in the following notes—which were made whilst our conversation was taking place—is fairly accurate.

(*a*) **Land Inside the Town of Bida.**—(Bida is a walled town containing, it is said, about 80,000 inhabitants. The circuit of the walls is about ten miles.)

Bida is divided into "ungwas" or quarters, and there is no part of Bida which does not form part of an ungwa.

Bida is divided into two primary ungwas—the Ungwa Masaba and the Ungwa Omoru. The Ungwa Omoru belongs to the present Emir, as head of the Omoru branch of the royal family. The Ungwa Masaba belongs to Osuman Zaiki, as head of the Masaba branch of the royal family. Out of these primary ungwas lesser ungwas have been carved out. This process of carving out cannot be carried on indefinitely.

Only men who have "rank" can hold ungwas. The people who have rank are the (1) Yerima, (2) Kotun, (3) Makun, (4) Nakworigi, (5) Neja, (6) Lukwan, (7) Ginya, (8) Cheyda, (9) Lafini, (10) Fokwo, (11) Benu, (12) Sheata (13) Nkwochi (the head of the actual King's sons ; the phrase "actual King" is explained by the fact that the Omoru and Masaba families alternately supply Emirs), (14) Rani, (15) Naganu. These ranks are only held by Kings' sons, and the holders of them are collectively known as "Dan Sariki" ("the sons of the King"). Other great offices conferring "rank," but not held by men of royal birth, are—(1) Ndegi, (2) Maiyaki,

(3) Gabi Seyedi, (4) Ndaturiki, (5) Nbadawaki (master of the horse and heir of the Maiyaki), (6) Somjadako, (7) Ubandoma, (8) Majingari (the treasurer), (9) Agwaga, (10) Chwana, (11) Ndamariki. (It is interesting to note the offices of Gabi Seyedi, Ndaturiki, and Ndamariki *must* be held by slaves. The Gabi Seyedi is the head slave of the Emir.) Collectively the holders of these offices are known as "Mainyan Gari"—*i.e.*, the "big men of the town." The holders of the three slave offices form a sub-class by themselves and are called the "Bayan Sariki"—*i.e.*, "behind the King" (which I presume refers to their station at official gatherings). Each one of the holders of the two sets of offices above enumerated presides over an ungwa.

Any inhabitant of Bida who wants to build a house in the town must apply to the head of the ungwa on which he desires to build, who can give leave without reference to the Emir. If the applicant is not an inhabitant, the head of the particular ungwa must gain the Emir's permission to grant the application.

Succession.—The ungwa always goes to the son of the man who previously held it. The rank does not necessarily fall to the son—and certainly does not if the son is young. It is the eldest son who succeeds.

The ungwa is not divided, but belongs to the eldest son. A woman cannot succeed to an ungwa, as she cannot give advice to the Emir. In this event the Emir chooses a "big man" to hold the ungwa.

Sale.—The holder of the ungwa cannot sell it. He can only give a man leave to "sit down" in it; rent is not asked from a man who sits down in an ungwa. The eldest son succeeds to a house, but pays no succession duty. The owner of a house can sell it, and if the holder of the ungwa refuses to allow the sale, the former can apply to the Alkali. The man who succeeds to a house can also sell the house. If a householder leaves a house unsold, he can at any time return to live in it, and turn anybody away who is living in it, so long as the house stands.

(*b*) **Land Outside the Town of Bida** (farm-land and bush-land).—All the land of the country, whether cultivated or not, is the property of some person. The boundaries of each man's lands are perfectly well known. There are mud beacons ("iyaka") marking out the bounds. I must ask leave of the man who owns the land before I can make a farm. The owner of land sells it sometimes; but this is looked on as disgraceful.

Succession.—(Note.—In my note on this point I find I have not distinguished between succession to farming rights in land and succession to the property in land, which are two very distinct matters. The note is, therefore, unreliable; but it appears to be clear that daughters succeed to neither set of rights.)

Sale.—A man can sell his right to farm-land.

Rent.—A farmer pays "zaka"—*i.e.*, tithe—in respect of land which he farms. The landowner does not as a rule get all the tithe, but must give a

portion—which is not fixed—to the Emir. For good services the Emir often remits his share in favour of the landlord. As regards the right to dispose of farming rights, the two interpreters questioned the Alkali's law, and stated that in Hausaland if a man leaves off farming, the land lapses to the owner, the former not being able to dispose of it. One of the interpreters, persisting in questioning the Alkali's law, was promptly suppressed by the following remarks, gleefully translated by the other interpreter: "You shut your mouth. Do you know book? It is only man who knows book who can talk." The Alkali had with him a book by Sheikh Alilu of Medina, which he stated contained the whole law and covered every conceivable case. He challenged me to raise a point which was not covered by authority.

II.

Rough Notes of Conversation with Yerima and Tukura, two of the Principal Men of Wushishi.

The Yerima is the heir of the King of Wushishi, and acts as prime minister. They both told me that the land law of the Emirate of Zaria was the same as that of Wushishi. The extent of the present province of Zaria, which is much less than that of the old Emirate, is, I have been informed by the Resident, 27,000 square miles.

Town of Wushishi.—A man who wishes to build a house goes to the King and asks for leave to build and for land. If a man is living in the town and wishes to leave it owing to some palaver, he takes his personal belongings and leaves the house standing for the King's disposal. If there is no palaver, a man leaving the house can sell it. A son succeeds his father in the ownership of a house, and has not got to pay any succession duty. If a man leaves no heirs and there are buildings, the King would put somebody in them. The King has the right of disposal of all houses left by heirless people—in fact, they have become the King's, and he can take them himself. Giving such a house to another man shows the King has become the owner of it.

Lands Outside the Town.—The lands are divided among the "saraukana." (These are the "big men." There are a great number of them, each one having a title.) Boundaries are well marked. A man who wishes to cultivate any land—even bush-land—must ask leave. The King has divided the lands among the saraukana. When a man ceases to be one of the saraukana, he ceases to hold the land attached to his office. A "big man" cannot sell any part of the land attached to his office. The man who owns a house in the town can sell it because its existence is due to his labour. If you cultivate land you cannot sell it—you can sell the fruits of cultivation, for they are the results of your labour. The man with the house sells the materials of the house, but not the land on which it is built. The purchaser

of a house would have to ask leave before occupying it. The King can either give leave directly or through one of the saraukana. A man who has cleared and cultivated a piece of land cannot dispose of it to another. If he were to dispose of it, that would be selling the land. An article like a gown can be sold—land cannot be sold. Land cannot be sold because it is contrary to Mohammedan custom. The son of a man who has cultivated land has the right to go on cultivating. If the holder of land refuses any applicant leave to cultivate unoccupied land, the King will call the parties together and enquire into the case. The King can give leave over the holder's head. If one of the saraukana dies, the King can diminish the quantity of land attached to his office. The King cannot diminish the quantity of land during the officer's lifetime. The King cannot turn a man out of his office. (The Yerima certainly said this, but I am informed that his statement is not correct.) On a vacancy in an office the King can detach some of the land formerly belonging to it, but he cannot do this once the office is filled. The King can do this because the land belongs to him. It is not the custom to sell land—the King even does not do so. The proper thing to do with land is to use it—not to sell it. The King cannot take a man's clothes away because they belong to the latter. The King can detach land from an office because the land belongs to him.

STATUS.

[*Contributed by* JULIUS HIRSCHFELD, ESQ.]

The "Prodigue" in France.—The decree of a French Court adjudging a French subject, domiciled in France, to be a prodigal, will not be regarded by English Courts. This principle was laid down by Mr. Justice Fry in *Worms* v. *de Valdor* (W.R. xxviii. p. 346) and adopted by Mr. Justice Farwell in *Re Selot's Trust* (1902), 1 Ch. 488.

Both judgments rest wholly or essentially[1] on the assumption that a decree of this description does not change the status of the person so adjudged, and that it is of a penal nature.

Definition of Status.—What is "status" in private law? Neither of the judges make any attempt at defining the term, nor has it, as far as I can ascertain, ever been judicially defined in England. This is not surprising. Austin (*Jurisprudence*, pp. 709 and 975) says:—

> What constitutes a status or condition? The notion is not capable of being fixed with perfect exactness. . . . To fix the notion of status with perfect exactness seems to be impossible. . . . The matter is full of embarrassment, and I presume to touch it with no small hesitation.

The Roman Conception.—The original Roman conception of the three statuses—viz., *libertatis*, *civitatis*, and *familiæ*—was clear enough. But that classification had already by the time of Justinian become obsolete,[2] and

[1] There seems to be a duality in the two judgments which is rather perplexing. The first ground taken by Mr. Justice Fry, and followed by Mr. Justice Farwell, was that a status not recognised in this country will be disregarded by English Courts (cf. also Professor Dicey's *Conflict of Laws*, p. 475). Now, if this rule were unassailable, it would by itself dispose of the case, and all further reasoning as regards the effect of a decree of prodigality on the status or change of status would seem to be supererogatory. But I submit that such a general rule cannot any longer be accepted, being incompatible with the fact that children legitimated by subsequent matrimony will be treated as legitimate, in accordance with the principles adopted by the comity of States, though the status of a legitimated child is unknown to English municipal law. This was laid down by the Court of Appeal in *Re Goodman's Trust* (17 Ch. D. 266), after *Worms* v. *de Valdor* was decided, and altered the aspect of the law bearing on this question completely. For this reason, I venture to think Mr. Justice Farwell was not bound to follow Mr. Justice Fry on this point.

[2] Cf. *Puchta Pandects*, par. 116.

jurisprudence has in spite of continuous efforts failed to formulate and agree on a true interpretation of the term. All we can gather from the books is either such negative conclusions as that *status* is not identical with *caput*; that it is not a quantity, not a capacity, not a faculty, and so on; or a variety of examples of status, as that of a wife, an infant, a lunatic, etc. The nearest approach to common consensus seems to be that it is a legal condition (*condicio*); and though this can only be considered as a paraphrase, the substitution of the latter term, having a less technical aspect, might perhaps be helpful.

Modern Codes: The English System.—Modern codes have either avoided the term "status" or left it undefined. If they use it, they generally couple it with the term "capacity" (*l'état et la capacité; lo stato e la capacità*), indicating thereby that the two are not co-extensive, yet subject to the same principles as regards the application of the personal Statute.

It appears that the English system has more tenaciously and extensively than any other shown the tendency of preserving the term, but it can hardly be said that the inherent difficulty has been successfully overcome. Professor Westlake (*Private International Law*, p. 53), induced by his disagreement with the decision in *Worms* v. *de Valdor*, says :—

> What is status except the sum of the particulars in which a person's condition differs from that of the normal person?

Professor Dicey (*Conflict of Laws*, p. 474) says :—

> As condition or status on the other hand may differ from the ordinary standard in that he has legal capacities which either fall short or exceed[1] those of the ordinary citizen.

We read in Sweet's *Law Dictionary* :—

> The term (status) chiefly applies to persons under a disability or persons who have some peculiar condition which prevents the general law from applying to them in the same way as it does to ordinary persons.

In Wharton's *Law Lexicon* we find :—

> The secondary meaning of status is that attached to it in connection with the law of contract, in which connection it signifies some disability.

Austin lays down that a condition, in order to constitute a status, must be common to a class (p. 981). Now I should imply from such utterances that any disability inherent—*i.e.*, not changeable by contract—in the legal condition of a class of persons would give them a particular status in private law.

[1] I doubt whether there is any class of persons whose capacities in private law exceed those of the "normal person." Nor do I think there is in private law (with the exception of the Sovereign) any "over normal." Austin says (p. 981): "Privileges are not part of the law of status."

Some Examples.—A barrister would have a status, not on account of his privileges in Court which give him a *locus standi*, but because he has no right of action in respect of his fees. On the other hand, a physician has not a status, since he is allowed to recover his fees (whatever his right of exemption from public duties or his restrictions by etiquètte may be). A wife married before January 1st, 1883, may be said to have a different status from one married after that date. Each of them has a status, though the disabilities of the latter are reduced to a minimum, whilst those of the former were considerable. Aged and infirm persons have by the Lunacy Act, 1890, been given a status which they have not had before.

The report of *In re Selot's Trust* does not make it at all clear what the French expert meant by his subtle distinction between modifying and affecting a status on the one side and changing the same on the other. Perhaps French lawyers are little accustomed to operating with the notion in an extensive sense—the Code Napoleon using the term only in connection with the family. At any rate, M. Lax's evidence does not assist us sufficiently.

In these circumstances, I presume we must, as indeed Mr. Justice Farwell has done, apply our own standard to the question as to whether a change of status has taken place. And I submit this: suppose an English lawyer had to review the position of a person who, according to English law, should have lost the capacity independently to go to law, to give a discharge for capital money received and to dispose of his property, would he hesitate to say that such a person, being placed so essentially different from a normal person, has a status or has changed his status? Yet such is the position of a prodigal according to French law. Ought we to conclude that the Frenchman in *Re Selot's Trust* has not changed his status?

Prodigality: Whether Penal.—Is the decree of prodigality of a penal nature?[1] The report in the present case fails to show whether or how far such was the view taken by the French expert. Let us refer to a writer on International Law who is, through the subject being part of his domestic law, thoroughly familiar with it and eminently competent to judge. Bar (*Private International Law*, translated by Mr. Gillespie, p. 333) says:—

> The judicial decree (of prodigality) prescribes without doubt a permanent protective care for the prodigal, and receives effect all over the world in accordance with the law of the country to which he belongs. This view has been adopted by authors on the Continent of Europe almost without an exception. It has been objected that it is a police regulation and must be limited in its operation to the territory to which the person under curatory belongs. But it is a police regulation in no other sense than any other kind of guardianship is so.

[1] In *Worms* v. *de Valdor*, Mr. Justice Fry—quoting Story's statement: "Disqualifications arising from heresy, excommunication, Popish recusancy, infamy, and other penal disabilities are not enforced"—places prodigality on an analogous footing. I may observe that in another place Story himself (p. 169) places prodigality on an equal footing with idiocy and insanity, as regards capacity.

Fœlix (*Droit International Privé*, ss. 33, 89) is also of opinion that such a decree should be binding in all other lands.

The Recent English Decisions.—Proceeding from such considerations, it would seem to me that the proposition arrived at in the two judgments is open to doubt. A strict definition of status is apparently impossible. It would follow that it is likewise impracticable to fix with certainty the point at which a change of status commences, and that it is therefore precarious ground to build a decision upon. If, on the other hand, we take status in the practical acceptation of the term as recorded by the lexicographers, we should logically arrive at the opposite result. The French evidence as presented in the report is not conclusive. The assumption that the decree is of a penal character has not been substantiated. Moreover, I submit that the decisions are not in harmony with the spirit of International Law which found such an emphatic expression in the judgment of Lord Justice Cotton in *Re Goodman's Trust*, referred to above. I venture to think that *comitas* enjoins that the personal Statute (where, according to general principles, it is applicable) shall not be disregarded except in cases where it would be distinctly repugnant to our national policy, to our religious or moral conceptions, or in any way prejudicial to our own citizens or Government.

The Analogy of Legitimation.—In conclusion, I may add that the German Civil Code provides for the legitimation of natural children, not only by subsequent matrimony, but also, on the application of the father, by a declaration of the competent authorities, similar to *legitimatio per rescriptum principis*. Such children are in every way placed in the position of legitimate children—subject to this, that they do not become members of the father's family. Now English Courts recognise the status of a child legitimated by subsequent matrimony (cf. my note above), though such a status is unknown to English municipal law. Would it recognise the status of a child so legitimated by decree? Professor Dicey (p. 507), commenting on *In re Goodman's Trust*, is of opinion that a child legitimated by a decree of the Czar of Russia would, if domiciled in Russia at the time of its birth and the decree, be considered legitimate in England. I would think that if *comitas* is conceived in that broad spirit which pervades the judgment of Lord Justice Cotton in *Re Goodman's Trust*, German children of the above class will also be recognised as legitimate in England.

REVIEW OF LEGISLATION, 1901.

TABLE OF CONTENTS.

PAGES

INTRODUCTION—*Contributed by* Sir Courtenay Ilbert, K.C.S.I. . 176–181

FOREIGN:—

1. DENMARK 182–183
   Contributed by George Brochner, Esq.

2. EGYPT 183–185
   Contributed by W. E. Brunyate, Esq.

3. FRANCE 185–187
   Contributed by George Barclay, Esq., LL.B.

4. GERMANY 187–194
   Contributed by Ernest J. Schuster, Esq.

5. ITALY 195–203
   Contributed by Signor T. Giamini.

6. SWEDEN 204–206
   Contributed by Nils Setterwall, Esq.

7. UNITED STATES OF AMERICA: STATE LEGISLATION . . . 206–212
   Contributed by R. Newton Crane, Esq.

BRITISH EMPIRE:—

I. UNITED KINGDOM—*Contributed by* J. M. Lely, Esq. . . 213–233
   1. Isle of Man . *Contributed by* His Honour S. Stevenson Moore 233
   2. The Channel Islands: Jersey, 1900–1902 . *Contributed by* E. Nicolle, Esq. 234

II. BRITISH INDIA—*Contributed by* Sir Courtenay Ilbert, K.C.S.I.
   1. Acts of Governor-General in Council 235–237
   2. Madras 237
   3. Bombay 237
   4. Lower Province of Bengal 237
   5. North-Western Provinces and Oudh 238–239
   6. Punjab 239
   7. Burma 239
   8. Regulations under 33 Vict., c. 3 239–240

PAGES

III. EASTERN COLONIES—

1. Ceylon . *Contributed by* F. H. M. Corbet, Esq., and R. F. Honter, Esq. . . 240–242
2. Straits Settlements . *Contributed by* Walter J. Napier, Esq. . 242–244
3. Mauritius . . „ „ Mr. Justice Wood Renton 244–246
4. Hong-Kong . . „ „ F. H. M. Corbet, Esq., and R. F. Honter, Esq. 246–249

IV. AUSTRALASIA—

1. Commonwealth of Australia . *Contributed by* A. R. Butterworth, Esq. . 250–261
2. New South Wales . *Contributed by* E. L. de Hart, Esq. . 262–267
3. Queensland . . „ „ W. F. Craies, Esq. . 267–271
4. South Australia . . „ „ A. Buchanan, Esq. . 271–276
5. Tasmania . . „ „ J. W. Fearnsides, Esq. 276–278
6. Victoria . . . „ „ H. E. Gurner, Esq. . 279–285
7. Western Australia . „ „ R. W. Lee, Esq. . 285–289
8. British New Guinea . „ „ W. F. Craies, Esq. . 289–290
9. Fiji . . . „ „ „ „ . 290
10. New Zealand . . „ „ G. R. Benson, Esq. . 290–299

V. SOUTH AFRICA—*Contributed by* Israel Davis, Esq.

1. Cape Colony 299
2. Natal 299–303
3. Certain Proclamations 304–305
4. Transvaal 305–307
5. Orange River Colony 308–309

VI. WEST AFRICA—*Contributed by* Albert Gray, Esq.

1. Gambia 309–310
2. Gold Coast 310–311
3. Lagos 311–312
4. Sierra Leone 312–316
5. Southern Nigeria 316–318
6. Northern Nigeria 318–320

VII. SOUTH ATLANTIC—*Contributed by* Michael H. Rafferty, Esq.

1. Falkland Islands 320–321

PAGES

VIII. NORTH AMERICAN COLONIES—

1. Dominion of Canada . *Contributed by* J. A. Simon, Esq. . 322
2. British Columbia . „ „ Walter Peacock, Esq. . 322–326
3. Manitoba . . „ „ H. Stuart Moore, Esq. 327
4. New Brunswick . . „ „ „ „ 327–328
5. North-West Territories „ „ „ „ 328–329
6. Province of Ontario . „ „ James S. Henderson, Esq. . . 329–335
7. Prince Edward Island „ „ H. Stuart Moore, Esq. 335
8. Province of Quebec . „ „ E. Manson, Esq. . 335–338
9. Newfoundland „ „ L. S. Bristowe, Esq. . 339–340

IX. WEST INDIES—

1. The Bahamas . *Contributed by* Wallwyn P. B. Shepheard, Esq. 341
2. Barbados . „ „ „ „ „ 341–342
3. Bermuda . „ „ The Hon. Reginald Gray . 343–344
4. British Guiana . „ „ F. H. M. Corbet, Esq., and R. F. Honter, Esq. . 344–346
5. British Honduras „ „ Wallwyn P. B. Shepheard, Esq. 346–347
6. Jamaica . . „ „ S. Leslie Thornton, Esq. . 347–349
7. Turk's and Caicos Islands . *Contributed by* Wallwyn P. B. Shepheard, Esq. . 349–350
8. Trinidad and Tobago . *Contributed by* Wallwyn P. B. Shepheard, Esq. . 351–352
9. Windward Islands—*Contributed by* H. L. Ormsby, Esq.
   - (i) Grenada 353
   - (ii) St. Lucia 353–354
   - (iii) St. Vincent 354–355
10. Leeward Islands—*Contributed by* H. L. Ormsby, Esq.
   - (i) Antigua 356
   - (ii) Dominica 356
   - (iii) Montserrat 356–357
   - (iv) St. Christopher and Nevis 357–358
   - (v) The Virgin Islnds 358

X. MEDITERRANEAN COLONIES—*Contributed by* Albert Gray, Esq.

1. Cyprus 358
2. Gibraltar 359
3. Malta 359–360

REVIEW OF LEGISLATION, 1901.

INTRODUCTION.

[*Contributed by* Sir Courtenay Ilbert, K.C.S.I.]

Three important events left their mark on the English and Colonial legislation of 1901 : the beginning of a new reign, the war in South Africa and the establishment of the Australian Commonwealth.

After the close of a reign of unexampled length, constitutional lawyers had to peruse old text-books in order to make their minds clear about the legal effect of a "demise of the Crown," and to ransack official archives for the purpose of ascertaining how far the precedents of 1837 were applicable to the circumstances of 1901. The Civil List Act, 1901, is a much shorter document than its predecessors, but is, like them, based on the theory that the King surrenders his life interest in the Crown lands and certain other branches of hereditary revenue in return for provision being made out of the taxes for supporting the honour and dignity of the Crown and the Royal Family. However, the hereditary beer and cider duties, of which the collection had merely been suspended in 1837, but which had long been obsolete and practically irrecoverable, are now definitely and finally abolished.

The Demise of the Crown Act lays the ghost of a doubt by declaring that the holder of any office under the Crown, whether within or without the British dominions, is not affected by the demise of the Crown, and thus adds one more to the fragmentary enactments which have eaten away the theory that the continuance of the work of government, including judicial proceedings, is dependent on the life of the Sovereign. It seems to have been considered necessary to pass similar enactments in some of the Colonies.

The Royal Titles Act enabled the King to make an addition to his style and title in recognition of his dominions beyond the sea.

The shadow of war lay deep on South Africa in 1901. The Cape Legislature was silent, and its records are a blank, whilst the provisional government of the newly annexed territories was pouring forth the numerous legislative proclamations required by the transition from the old state of things to the new. Natal passed an Act of Indemnity.

The Federal Parliament of the new Australian Commonwealth passed several important measures in their first session. Among these were an Interpretation Act, comprehensive Customs and Excise Acts, providing general machinery for the collection of these duties, an Act for facilitating the service and execution throughout the Commonwealth of the powers and judgments of any State Court, a general Post and Telegraph Act, and an Act for regulating the mode and conditions of acquiring, by compulsion or otherwise, land for public purposes. The machinery under this last Act appears to be somewhat more summary and less lenient to the private owner than the machinery under the corresponding English Acts. Of a more controversial nature were the Pacific Island Labourers Act and the Immigration Restriction Act. The first of these Acts prohibits absolutely the entry into Australia of any Pacific Island labourer—*i.e.*, Kanaka—after March 31st, 1904, and prohibits his entry without a licence before that date. The second Act places immigration into the territories of the Commonwealth under severe restrictions, and Colonel Howard Vincent will probably adopt suggestions, wisely or unwisely, from its provisions. Among the persons whose entry is prohibited are "any person who when asked to do so by an officer fails to write out on dictation and sign in the presence of the officer a passage of fifty words in length in a European language dictated by the officer." This form of exclusion is mainly aimed at members of the coloured races, but, if the test language were judiciously selected, might obviously have a much wider application. Other prohibited persons are "any person likely in the opinion of the Minister or of an officer to become a charge upon the public or upon any public or charitable institution"; "any person who has within three years been convicted of an offence and has been sentenced to imprisonment for one year or longer therefor and has not received a pardon"; and "any person under a contract or agreement to perform manual labour within the Commonwealth." But there is a proviso excluding from this last prohibition workmen exempted by the Minister for special skill required in Australia, and persons under contract or agreement to serve as part of the crew of a vessel engaged in the coast trade in Australian waters, if the rates of wage specified therein are not lower than the rates ruling in the Commonwealth. It will be remembered that six English hatters were recently shut out under this provision, but were subsequently admitted on the ground of their "special skill."

The ordinary current legislation of the several Colonies exhibits, as usual, a strong family likeness underlying diversities of character and local circumstances. It is not always easy, without extrinsic knowledge beyond that supplied by the laws themselves, to determine the relative importance and interest of each new law, or to distinguish between the enactment of new and the re-enactment of old matter. A local review of the legislation of the session, such as that supplied by Mr. Lely to the *Times*, would often materially assist the compilers of our general review of legislation. Perhaps

the Colonial correspondents of our Society could supply us with such reviews, where they exist, or enable our contributors to obtain them.

Students of constitutional law will note that South Australia has remodelled the constitution of her Legislative Council and House of Assembly; that whilst Victoria has reduced the pay of her Governor, New Zealand has raised the pay of the members of her two legislative bodies; and that in Tasmania each member has a free pass over all railways. Manitoba has passed an electoral law based on manhood suffrage, with a provision that a person who is not a British subject by birth, and has not resided for seven years in the Dominion of Canada, is not to have a vote unless he is able to read a selected portion of the Manitoba Act in either English, French, German, Icelandic, or any Scandinavian tongue. It is possible that race lurks under this literary test, as under the literary test applied to immigrants into Australia.

The several States of the Australian Commonwealth are still prolific of legislation, notwithstanding the establishment of a Federal Parliament. West Australia has followed the good example of Queensland by codifying her criminal law, and has adopted the same method of enacting the code. The code itself is scheduled to a short bill, the provisions of which correspond to those of the introductory laws by which the German Reichstag has brought into operation its great codes. The adoption of a somewhat similar method would probably offer the best chance of passing in this country measures of consolidation and codification which are not suitable for detailed discussion and amendment in a Committee of the whole House. If the House of Commons would content itself with discussing any such measure as a whole, and referring it back, if necessary, with or without instructions, for reconsideration by the Committee or Commission who prepared it, with reference to any points on which doubt or difference might arise, it would have some chance of becoming law. Under existing arrangements, as is well known, such measures have no chance of success. An arrangement of this kind was suggested in one of the draft standing orders which were proposed last session by the Government, but which the House, for want of time, found itself unable to discuss.

The United Kingdom is still very far from a criminal code, but its legislature has succeeded by the recent Larceny Act in placing the law of criminal misappropriation on a somewhat more rational footing. We must be thankful for small mercies. It has also tried a new experiment in the way of fixing on parents liability for misdeeds of their children. Both New Zealand and Mauritius have been attempting to deal with the difficult subject of seditious libel and defamation. Mr. Albert Gray continues to amuse himself and his readers with the peculiarities of West African legislation, and has discovered a law of Sierra Leone for the suppression of the Alligator Society, which appears to be a murder society of the same nature as the Human Leopard Society referred to in the review of legislation in 1896.

Mr. Ritchie, by adopting a method of legislation which is not free from Parliamentary risks, succeeded in not only amending, but consolidating, the Factory and Workshops Acts for the United Kingdom. His Act should be compared with the New Zealand Factory Act of 1901, some of the provisions of which are, as might be expected, of a more sweeping character than those of the English antitype. For instance, the definition of "factory" is very comprehensive, and the Act requires payment of a minimum wage.

Among the laws for regulating the conditions of labour and the relation of employer and workman, or of master and servant, may be noted the important Industrial Arbitration Act of New South Wales, which is drawn on the same general lines as, but differs in material particulars from, the corresponding Acts for New Zealand and West Australia. It provides for the registration and incorporation of industrial unions, and the making and enforcement of industrial agreements, and constitutes a court of arbitration for industrial disputes. But it does not follow the New Zealand and West Australian Acts by adopting provisions for conciliation. Those who have watched the recent course of trade union litigation in England will take note that a registered industrial union is a body corporate, but that it cannot be sued nor can its property be taken in execution except by process under the Act, and in respect of obligations incurred in the exercise of powers conferred by the Act. The Act is a temporary measure and is limited to expire in 1908, unless continued. Canada has in her turn framed an Arbitration and Conciliation Act on Australasian lines, and the West Australian Act of 1900 on the same subject has been repealed and re-enacted with modifications.

New Zealand amended her Old Age Pension Act in 1901, but appeared to be on the whole satisfied with the working of that measure. Victoria has now passed an Act on the same lines, providing for pensions which are not to exceed eight shillings a week. But the right to a pension is strictly limited by conditions as to age, character, and independent means. Among the conditions are that the pensioner's average income from other sources must not exceed eight shillings a week and that the capital value of his property, whether in or out of Victoria, must not exceed £160, and the elaborate provisions inserted for ascertaining the fulfilment of these conditions illustrate the difficulties that surround the subject. Nothing lends itself more easily to fraud than a pension system.

Laws for the regulation of native labour raise different questions from those involved in ordinary industrial legislation. They were illustrated in 1901 by the Act of the Government of India for regulating the engagement and employment of coolies in the tea industry of Assam, and by the Act of the Natal Legislature directed against the abuses of "touting" for native labour.

Another phase of the race question is illustrated by the measures framed

in Lagos and Nigeria for establishing native councils and native Courts with power to administer native law and customs.

How should one classify the regulations made by the Government of India, under its summary powers, for the new frontier district carved out of the Punjab? Under the head of criminal law, or as a form of legislation arising out of contact with uncivilised or semi-civilised races? However they are classified, the historical mind might find interest in comparing their provisions with those of the laws and practices which, in Tudor times, were enforced by the Council of the North for maintaining order on the turbulent and lawless frontier between England and Scotland.

The English Money-Lenders Act of 1900 has probably disappointed the expectations of its promoters. It was copied by the New Zealand Legislature in 1901, but with a material alteration. Under the English Act the Courts cannot set aside a money-lending contract, unless the charges are excessive *and* the transaction is such that a Court of equity would give relief. New Zealand has altered "and" into "or" and thereby considerably increased the powers of the Courts. It will be interesting to see how these powers are exercised.

The legislation of the year on the subjects of land, agriculture, and the relation of landlord and tenant presents features of much variety and interest. The Legislature of the North-West Provinces of India, under the guidance of Sir A. Macdonnell, has made another attempt to reconcile the customary occupancy rights of the cultivator with the rights of the superior owner of land. Queensland has authorised the establishment of a land bank, and provided machinery for the selection of unoccupied lands as agricultural homesteads. South Australia has remodelled her recently established village settlement system on a more individualistic and less communistic basis. Tasmania has appointed commissioners for letting land on perpetual lease. These are only some among the numerous Land Acts of the year.

The English educational legislation of 1901 was confined to the short unsatisfactory and temporary "Cockerton" Act. But Ontario in the same year succeeded in passing a comprehensive Act, the provisions of which deserve the study of educational reformers. New Zealand also regulated in much detail the salaries of teachers employed in public schools.

Among interesting "survivals" may be noted the fact that by-laws "for regulating the assize of bread" still appear to be made in Ontario.

It will be observed that this year's review of legislation extends to foreign as well as British legislation. It gives a sketch of the recent legislation of Denmark, France, Germany, Italy, Sweden, and the United States, and a summary of Egyptian decrees. Mr. Newton Crane's review of United States legislation, is particularly interesting. Though grouped under foreign legislation, it is in substance and spirit closely akin to British legislation. He notes the increasing tendency to restrict the power of the State Legislatures and the experiments which have been made in the

direction of requiring popular initiation for legislation and resort to the *referendum*. The law of marriage and divorce is still in a state of flux. Drink and gambling continue to be fertile subjects of legislative experiment. The prevalence of cigarette smoking among boys has called for the interference of the Legislatures both in the American States and in some of the British West Indies. Labour legislation has assumed different forms in different States. Colorado has abolished the doctrine of common employment. Alabama has made violation of a contract to perform labour a misdemeanour. Illinois has attempted to make it a misdemeanour to discharge an employee for joining a trade union, but the attempt has been declared unconstitutional. Illinois, Missouri, and Utah have established boards of arbitration. Many States have authorised the establishment of free public employment bureaus and imposed heavy licensing fees on private employment offices. In the domain of private law a tendency is apparent to extend the right of succession to illegitimate children. In criminal law, and in the administration of civil and criminal justice, there are several new departures. Altogether, the field of United States legislation is full of varied interest.

FOREIGN.

1. DENMARK.

[*Contributed by* GEORGE BROCHNER, ESQ., *of Copenhagen.*]

Progressive Measures and Political Parties.—The Danish Legislature assembles every year early in October, and generally remains in harness till April or May, so that the legislative period overlaps two years. In the summer of 1901 the Liberal party, after several decades of more or less patient waiting, at last came into office, an event which has given a fresh impetus to the introduction of new measures, reforms in a broad democratic spirit in several of the most important State departments, the Church, taxation, the administration of justice, army reform, etc. Thanks to the influence of the strong Liberal majority in the Lower House, several of these measures have been under consideration for years, in the House or by special committees, but none of the more important bills have as yet passed through their final Parliamentary stages. Although the Government is all-powerful in the Lower House, and although the last election of members to the "Landsthing" (the Upper House) was supposed to have given the Government a majority of a couple of votes in this Chamber, the latter, as was the case in the vote on the sale of the Danish Colonies in the West Indies, may yet bring to naught the plans of the Ministry.

Budget and Public Loans.—During the last session there were laid before the "Rigsdag" 105 measures (88 introduced by the Government, 17 by private initiative), and of these, 59 were finally dealt with, whilst 46, including nearly all the important ones, were not disposed of. Amongst the measures passed were the Budget and several minor bills having connection with the same, besides the State Loan Bill, authorising the Government to issue a new loan of Kr. 30,115,000 at an interest of $3\frac{1}{2}$ per cent. per annum.

Small Holdings and Schools of Agriculture.—Several bills were also passed tending to facilitate the conditions under which tenants of small holdings rent their land and houses, to further subsidise agricultural schools and classes, and to encourage in various ways the raising of good stock—measures which all show a warm interest for both the large and, perhaps

more especially, the small farmer, in which respect the Danish Government is undoubtedly second to none; it would, in fact, not be too much to say that it leads the way. Alterations were also passed in a previous Act, increasing the facility for loans to occupiers of small holdings. Several bills introducing certain improvements in the pay of various officials under the General Post Office and other departments were also passed.

Army.—A vote of Kr. 5,000,000 for new field artillery was passed, and an Act introducing, by way of an experiment, complete boarding of the soldiers of two regiments, with a view of ultimately adopting this system in the whole of the army, where practicable. A large Parliamentary Committee was appointed to fully investigate and report upon the state of the army and navy.

Administration of Justice.—The bill introducing reforms in the administration of justice will almost completely revolutionise the present system, amongst other things instituting juries, but as its fate is not yet finally sealed, it will be more expedient to let further reference to it stand over.

Taxation and Church Reform.—The same applies to the Taxation and Church Reform Bills, although these measures are of far greater importance and interest than those passed, and have occupied a great deal of the time of the Legislature.

2. EGYPT.

[*Contributed by* W. E. Brunyate, Esq.]

Decrees of General Public Interest—30.

Alexandria Municipality.—The municipal limits were extended by Decree of May 16th.

Conflict of Jurisdiction (2).—The Mehkemeh of Cairo and the Native Court of Appeal having, by two conflicting judgments, appointed different "hazirs" of the same "Wakf," execution of both judgments was suspended by Decree of July 3rd, and by Decree of December 16th a Commission was appointed to decide the case. The Commission upheld the decision of the religious Court.

Electoral.—The meeting of the General Assembly was postponed, by Decree of March 12th, beyond the period fixed by the Organic Law, on the ground that the Government had no work to put before it. It is to be remarked that, besides the duty of deliberating on projects submitted to it by the Government, the General Assembly has the right of making representations on all subjects of public interest.

Finance (9).—These Decrees included the annual Budget, the annual Corvée Budget, three Decrees granting increased postal facilities, a Decree

authorising redemption of pensions, a Decree assessing the land tax on the lands pledged as security for the Daira Sanieh debt, a Decree abolishing octroi dues except in Cairo and Alexandria, and a Decree imposing excise dues on local machine-made cotton goods. The last-named Decree led to an action before the Mixed Tribunals by a British company, claiming that the tax was not enforceable against persons entitled to the benefit of the capitulations. The Tribunal of First Instance gave judgment for the plaintiff. On appeal, the Government advocate admitted at the Bar that a general tax on all locally made cotton goods could not be enforced against such persons, but argued that a tax on goods locally made and consumed was within the competence of the Government, even against foreigners, and undertook that in practice a drawback should be granted on the exportation of goods on which the tax had been paid. On that undertaking, the Mixed Court of Appeal decided in favour of the Government. That the invalidity of a law can be cured by a declaration at the Bar, is probably peculiar to Egypt; it results from the fact that the Mixed Tribunals cannot decide as to the validity of a law; they can only grant damages where the law violates acquired rights (R.O.J., Art. II.).

Irrigation.—By Decree of May 31st power was granted to the Ministry of Public Works to prohibit the sowing of maize, etc., during the period of low Nile.

Justice (6).—By Decree of February 9th amending the Native Penal Code, two kinds of imprisonment were introduced—simple imprisonment and imprisonment with labour—and the State Prosecuting Department was given an option to demand, or not, the enforcement of unpaid fines and costs by imprisonment (*contrainte par corps*) in all cases of misdemeanour and crime where a substantive sentence of imprisonment is passed. By a second Decree of the same date, the conditions under which *contrainte par corps* may be replaced by unpaid manual labour for the Government were modified. By a third Decree, amending the Native Code of Criminal Procedure, it was provided that sentences of imprisonment, etc., shall be executed in virtue of warrants issued by the State Prosecuting Department instead of a complete copy of the reasoned judgment being sent to the prison. The three Decrees above mentioned form an instalment of a more complete division of the Codes, upon the completion of which they will become obsolete. By Decree of March 1st, diplomatic and consular agents *de carrière* are permitted to sue before the Mixed Tribunals, and may also be sued in respect of commercial undertakings carried on and land held by them. Other consular agents and servants are rendered justiciable in respect of all matters not connected with their official duties. By Decree of April 13th, inspectors of steam-engines were created officers of judicial police for offences connected with the service to which they are attached; and by Decree of June 10th the rules as to the composition of the Consultative Committee of Legislation were slightly modified.

Khedivial Family.—By Khedivial Ordinance of May 16th the title of "Prince," theretofore enjoyed by all descendants of Mohammed Ali Pasha in the male line, was restricted to the children, grandchildren, and brothers of the present Khedive and of his predecessors and successors, together with such other descendants of Mohammed Ali in the male line as, at the date of the Ordinance, had attained the age of fourteen years. Similar rules were prescribed as to the title of "Princess." The Ordinance was accompanied by lists showing twenty-eight Princes, forty-six Princesses in their own right and ten by right of marriage. An important effect of the Ordinance appears to be to provide, for the first time, a legal basis for the title of "Prince" in the case of those members of the Khedivial family who are allowed to retain it.

Pawnbrokers: Pre-emption.—Two Decrees of March 23rd on these subjects reproduce textually, for the Native Tribunals, Decrees of the previous year applicable before the Mixed Tribunals.

Prisons.—The Prisons Decree of February 9th is an amending and consolidating Decree of 105 articles which repeals seven Decrees and four Ministerial Orders. A second Decree of the same date provides for the making of appeals by prisoners and the service of process upon them through the Director of the Prison.

Public Servants.—Two Decrees of March 23rd amend in unimportant details earlier Decrees as to discipline, while a Decree of November 25th provides that, for disciplinary purposes, officers of the coastguard shall be assimilated to civil employees. A Decree of June 24th records the rules as to admission to and promotion in the civil service. The principal provisions of interest are those of Arts. 13, 14, and 15, which differentiate between the initial salaries of employees according to their educational qualifications; Art. 17, which fixes a maximum beyond which an employee with a primary certificate only, entering the service after the promulgation of the Decree, cannot rise; Art. 19, which subordinates the nomination of non-Egyptian employees to the approval of a Committee composed of the principal English officers in the various ministries; and Art. 28, which empowers the Council of Ministers on the proposal of the Finance Committee, to over-ride the provisions of the Decree whenever it sees fit.

Wakfs.—A Decree of May 24th amends the composition of the Superior Council of the Administration of Wakfs.

3. FRANCE.

[*Contributed by* George Barclay, Esq., LL.B.]

Religious Orders.—The most important Act of legislation passed in France during the year 1901 was the Law put into force on July 2nd, placing restrictions on the exercise of their functions by associations and religious orders (*congrégations religieuses*).

This subject already preoccupied earlier legislators dating back to Louis IX., who in a famous decree (*les Etablissements de St. Louis*) of 1270 limited the powers of the Church respecting mortmain and the freedom of association. He also made the existence of religious bodies dependent upon royal authority. Edicts of 1560, 1659, 1749, and 1768 contained the same conditions. From 1480 the tendency has been to keep the Church separate from politics. An Ordinance of 1483 prohibited the existence of religious associations which had become political. The Assemblée Constituante in 1790 granted absolute freedom of association on condition of obedience to the public laws (*à la charge d'observer les lois qui régissent les citoyens*). Since then this right has been gradually restricted, until in 1834 an association of more than twenty people was declared illegal unless authorised by the Government. This law is still in force (Art. 291, Penal Code).

The Law of July 2nd, 1901, was necessary to put an end to abuses which had grown out of too slack a legislation. It enumerates in precise terms the conditions required for the formation and existence of any association. The following is a summary of its more important clause :—

Art. 1.—An association is an agreement by which several persons unite in a permanent way, with an object other than that of sharing the profits.

Art. 3.—Associations whose object is illicit or against the Republican Government are null.

Art. 4.—A member of an association formed for an unlimited period can at any time retire from it, provided his subscriptions are up to date, *even should there be a clause to the contrary.* This is aimed at the religious orders which acquired unlimited power over their members.

Arts. 5 and 6 fix the authority before which the declaration must be made prior to the formation of an association, and some of the rights it thus acquires.

Art. 11.—Gifts under reserve of the donor's life-rent are prohibited. This also is aimed at the religious bodies.

Art. 13.—A religious order can only be founded by a special Law, which will at the same time draw up its regulations.

Art. 14.—No person is allowed to teach who belongs to a non-authorised order.

Art. 15.—Every religious order must keep accounts of its expenses and receipts, and a list of its members *under their patronymic names as well as under the names by which they are known within the order.*

Art. 16.—Every non-authorised order is illegal.

Art. 17.—The orders existing at the time of the promulgation of this Law and which had not been already recognised or authorised have a period of three months to begin the above-mentioned formalities. In default of this, they will be dissolved *ipso jure.*

Many orders refused to comply with the Law, and were consequently suppressed.

Infanticide.—A noteworthy modification has been made concerning infanticide by the Law of November 21st, 1901. Art. 300 of the Penal Code described infanticide as the killing of a new-born child, and Art. 302 of the same Code inflicted the penalty of death on any person guilty of infanticide.

The new Law makes a distinction: "Infanticide is the killing, *premeditated or not*, of a new-born child."

The mother, whether she be principal or accomplice, will be condemned to penal servitude for life in the case of premeditation, and to penal servitude for a limited period in the case of non-premeditation.

Revenue.—Apart from these, the Chamber only voted the usual Laws on the budget, the taxes, and other subjects of mere internal interest.

4. GERMANY.

[*Contributed by* Ernest J. Schuster, Esq.]

Statute relating to the Sale of Wine, etc.—This Statute takes the place of the corresponding Statute of 1892, the provisions of which are reproduced with certain modifications. The new Statute, for the first time, contains a definition of the term "wine" as "the beverage produced from grape juice by alcoholic fermentation." The provisions as to the processes permitted or forbidden in the production of the article are mainly the same as those of the repealed Statute, but in certain respects they have been made more stringent; more especially the number of chemical substances permitted to be used in the production of sparkling wine has been reduced. It is also forbidden to designate wine to which sugar has been added as "natural wine"; but such addition of sugar within certain limits remains permissible as heretofore. The enforcement of the provisions against the falsification of wine is facilitated by the section which enables the experts designated for that purpose by the executive authorities to pay surprise visits to wine-producers and wine-merchants at any hour during daytime; the disclosure of any trade secrets by such visiting experts otherwise than for the purpose of giving evidence in the course of any criminal proceedings instituted under the Act is punishable by fine or imprisonment.

Statute regulating the Relations between Authors and Publishers.—This Statute (which came into force on January 1st, 1902) is intended for the protection of authors in their dealing with publishers, and is the result of protracted enquiries instituted by the Imperial Judicial Department with the assistance of the associations representing the interests affected by it and of experts specially invited to give evidence in the matter. Its main object is to establish conditions which in the absence of express

agreement to the contrary are to be deemed to form part of a publishing contract. The Statute regulates :—

(1) The extent to which the copyright passes to the publisher ;

(2) The reciprocal obligations between author and publisher (time of delivery of manuscript ; liberty accorded to author in respect of alterations ; duty of publisher as to printing, etc., and as to number of copies ; mutual rights as to new editions, as to corrections, as to payment of author's honorarium, as to presentation copies, etc.) ;

(3) The limits within which the publisher's rights under a publishing contract may be assigned ;

(4) The circumstances under which the contract is terminated (effluxion of time, sale of stipulated number of copies or editions, late delivery or deficient quality of manuscript, deficiencies in performance of publisher's duties, destruction of manuscript before completion of reproduction, author's death, author's withdrawal, etc.) ;

(5) The consequences of the publisher's bankruptcy ;

(6) The special provisions applicable in respect of contributions to newspapers and periodicals ; and a number of miscellaneous matters.

The provisions of the bill which during its preparation and the Parliamentary debates relating thereto were most hotly discussed were those relating to the assignment of publishers' rights. On the part of authors it was contended with great warmth that the possibility of assignment exposed them to serious risks, from which they required to be protected. The publishers, on the other hand, maintained that a compulsory restraint on the alienation of publishing rights would seriously hamper publishing business and might in certain events cause great loss to a publisher's creditors. The publishers' view prevailed, but a proviso was added to the clause relating to the assignment of publishers' rights, to the effect that the benefit of a publishing contract was not to be assigned except with the author's consent, which consent was, however, not to be unreasonably withheld, and was to be deemed as given if not expressly refused within two months from the receipt of the notice relating to the proposed assignment.

Copyright Statute.—This Statute took the place of the corresponding Statute of 1870, and came into force on January 1st, 1902 ; it deals with literary, dramatic, and musical copyright, and copyright in technical and scientific drawings and models. The Act does not contain any alteration affecting the principles of the former law, but there are many modifications of detail, and statutory recognition is given to a number of rules which had been established by judicial decisions. The provisions necessary for the purpose of giving effect to the Berne Convention have also been incorporated. On the other hand, it was possible to dispense with some of

the rules enacted by the repealed Statute and to simplify the language of others, owing to the modification and general consolidation of the law effected by the German Civil Code.

The right regulated by the Statute is more extensive than "copyright" in the strict sense. It includes the author's right to prevent the unauthorised publication of *unpublished* matter (which in England is a common law right not affected by the Copyright Statutes), as well as the right to prevent the unauthorised publication of *published* matter. The protection of speeches, lectures, letters, and privately circulated manuscript is therefore, in Germany, subject to the statutory rules in the same way as the protection of published works.

Under these rules, lectures or speeches are protected in so far only as they serve "for purposes of edification, instruction, or amusement," and even speeches serving one of these purposes, if delivered in the course of any public debate, are excluded from protection against publication in *newspapers* or *periodicals*; speeches delivered in the course of any judicial proceedings or of the deliberations of any Parliamentary, communal, or ecclesiastical assembly may be published without restriction. It is, however, forbidden to publish without authority collections of speeches made by one person.

Copyright protection is given to matter original either as to its contents or as to its form. A verbatim report of a speech, which in England is entitled to copyright (*Walter* v. *Lane* [1900], A.C. 539), is not entitled to any protection under German law; but the statutory protection is accorded to the report of a speech reproducing the same in a condensed or modified form. The publication of any manuscript not in itself entitled to copyright, however laborious to the editors, does not as such enjoy any copyright protection under German law.

As regards cuttings from newspapers and extracts from books, the German law allows much greater liberty than English law. News may be reprinted without any restriction, and newspaper articles not being of a scientific, technical, or imaginative nature are protected only in so far as the copyright is expressly reserved. Passages from books and lectures may be quoted *in extenso*. Short articles and individual poems may be reproduced in works of a scientific nature, and poems and short extracts from books may be incorporated in song-books and anthologie intended for religious or educational purposes or for any special literary purpose. In the latter case, however, the author's personal consent must be previously obtained, if he is living at the time of the intended publication; such consent is deemed to be given if not expressly refused within a month from the receipt of the notice on the subject.

The protection against unauthorised translations, which under the former law was subject to many restrictions, is now accorded in the same manner as the protection against direct reproduction, and the provisions

against musical piracy are also more stringent and complete than they were under the Statute of 1870.

The reproduction of musical pieces by means of mechanical instruments or of changeable component parts of musical instruments (such as are used for pianolas or other similar devices) is not deemed an infringement of the copyright therein.

The public performance of musical compositions (not being operas) is permitted without the copyright owner's consent, in any of the following cases: (1) if admittance thereto is free; (2) if such performance takes place as part of any public festivity (not being in the nature of musical festivals); (3) if the proceeds of admission tickets are applied for the exclusive benefit of any charitable object; (4) if the musical composition is produced by any society at a performance to which only members or relatives of members are admitted.

The protection continues during the life of the author and thirty years beyond, and in any event for ten years from the date of the first publication. The protection for ten years from the date of publication is an innovation introduced for the purpose of protecting works published some time after the author's death (more particularly autobiographies and other similar works, the publication of which is frequently deferred on account of personal reasons); as in such cases the proof of the copyright owner's title is frequently somewhat difficult, the Statute provides that in the case of works remaining unpublished for a period of thirty years after the author's death, the owner of the manuscript is presumed to be the owner of the copyright. As works published more than thirty years after the author's death did not under the former law have any protection in Germany, the innovation is a step in the right direction, but compared to the provisions of English law, which in any case protects literary copyright for a period of forty-two years from the date of the first publication, the new regulations seem still to accord stepmotherly treatment to posthumous works.

In the course of the deliberations on the Copyright Statute much discussion arose with reference to the right of public representation of dramatic and musical works. In the original draft submitted by the Federal Government it was proposed to give the author and his successors in title the exclusive right of public representation for a period of fifty years after the author's death (being the period during which the right is protected in Belgium, France, the three Scandinavian States, Hungary and Russia, and other countries). It was urged that owing to the longer protection enjoyed in France, it was customary for the better known German composers to sell their rights to the well-known French Société des Auteurs, Compositeurs et Editeurs de Musique, and that the extension of the period in Germany would take away the inducement for such a course, and facilitate the establishment of a similar German Association; but notwithstanding these arguments, which were strongly supported by the representatives of the

interests affected by the provisions in question, the Government proposal was, by a small majority, defeated in the Reichstag.

A somewhat important innovation was introduced by the clause providing that any copyright, while vested in the original owner, cannot be attached by a judgment creditor, and that after an author's death his creditors are not entitled to the copyright in any works remaining unpublished at the time of such death ; the copyright in published works is, however, part of the assets available for the payment of the debts of a deceased copyright owner.

Statute relating to Trade Tribunals.—The law of 1890, by which special tribunals having exclusive jurisdiction in certain specified kinds of disputes between employers and workmen, similar to the French *conseils de prud'-hommes*, were established in Germany, was amended in various important respects by the above-mentioned Statute, and the Imperial Chancellor was in the usual way authorised to publish the text of the original Statute as amended by the amending Act. This newly published text, therefore, represents the whole of the law at present in force on the subject.

The establishment of a trade tribunal was under the old law optional within the discretion of the local authority of each communal district. Under the amended law, tribunals of this nature must be introduced in all towns having a population of more than twenty thousand inhabitants, and remain optional as before in all other communal districts. Each tribunal consists of a president and a vice-president (neither of whom may be an employer or a workman), and of at least four ordinary members (of whom one-half must be employers and one-half workmen). The members are elected for periods fixed by local by-laws (one year being the minimum and six years the maximum), by the employers and workmen not being under the age of twenty-five years, and not disqualified on any special grounds, residing or employed in the district, each class voting for the members belonging to their class. The election of the president and vice-president must be confirmed by the administrative authorities. The members of the tribunal do not receive any remuneration ; but they are entitled to the reimbursement of their travelling expenses, and to compensation for loss of time. The local authority of each district having a trade tribunal has to make rules as to the mode of election, and as to the extent of the jurisdiction of the tribunal or tribunals formed within such district. It may establish tribunals with limited local jurisdiction, and may also restrict the jurisdiction of any particular tribunal to particular trades or particular modes of manufacture. Where the jurisdiction is restricted to particular trades, persons not engaged in such trades are disqualified from being electors or members of the Tribunal. Subject to the power vested in the local authorities to restrict the jurisdiction as to particular trades, the jurisdiction of the trade tribunals extends to all disputes relating to one of the following matters :—

(1) The commencement, continuance, or termination of a contract as to work and labour between an employer and a workman ;

(2) The performance of any duty being the subject matter of any such contract;

(3) The restitution of testimonials or other documents or articles or of any moneys deposited by the workman with his employer in pursuance of any such contract;

(4) Claims for damages in connection with the matters mentioned under 1-3, or in respect of false entries in wage-books, books of testimonials, etc.;

(5) Deductions from wages in respect of contributions to sick funds;

(6) Claims by one workman against another in respect of joint work undertaken by several workmen for the same employer.

The jurisdiction of the trade tribunals situate in any particular State may be extended by the central authority of such State.

In respect of any matter within the competence of a trade tribunal the jurisdiction of the ordinary Courts is excluded, and a new section added by the Statute of 1901 provides that any arbitration clause in a contract between an employer and a workman, excluding the jurisdiction of the trade tribunals, is valid only in so far as the arbitrators appointed thereby consist of a president, being neither an employer nor a workman, and a number of other arbitrators, of whom one-half are employers and the other half are workmen. The trade tribunals are not intended to visit the jurisdiction of the arbitration Courts established by any trade guild in respect of disputes between any members of any such guild. The members of any trade guild having an Arbitration Court are not entitled to take part in the election of the members of the trade tribunal of their district or to be elected as such members.

Any judgment of a trade tribunal relating to a subject-matter of the value of at least 200 marks is appealable in the same manner as a judgment of the local Court having jurisdiction in the district of the trade tribunal.

In addition to the judicial functions exercised by the trade tribunals under the above-mentioned enactments other duties are imposed on them of an extra-judicial character. In disputes relating to new arrangements as to wages or conditions of work the trade tribunal of the district has to act as a Board of Conciliation, and when sitting in that capacity consists of its regular president and an equal number of employers and workmen designated for the purpose by the interested parties.

If the Board of Conciliation does not succeed in bringing about an arrangement as to the matters in dispute, it has to give a decision on the merits of the case; and if the parties refuse to conform to such decision, its contents, together with the declarations of the parties relating thereto, have to be published, but no means are provided for enforcing the decision.

A trade tribunal has also to comply with the request of any administration authority for an opinion relating to any matter concerning any trade carried on within the district, for which purpose sub-committees consisting of an

equal number of employers and workmen may be formed. Particulars as to the formation of such sub-committees must be contained in the local by-laws dealing with the election and constitution of the trade tribunals of each district.

Statute relating to the Supervision of Private Insurance Undertakings.—The expression "private insurance undertaking" is used by the above-mentioned Statute to distinguish the companies and associations doing the ordinary insurance business from the corporations and other organised bodies established under the provisions of public law, more particularly under the Statutes relating to compulsory insurance against sickness, accidents, and old age.

The law as to private insurance undertakings before 1902 was entirely governed by State law, and the Imperial Statute on the subject has the double object of introducing important innovations and of unifying the law throughout the German Empire. The principal provisions of the new law, which came into force on January 1st, 1902, may be summarised as follows :—

(1) All private insurance business is brought under the direct supervision of a Government authority. In respect of undertakings carrying on business in more than one German State, and also in respect of foreign insurance undertakings, the newly created Imperial Board of Supervision is the supervising authority. In respect of undertakings carrying on business in *one* German State only, a board appointed by the State Government is the supervising authority.

(2) Undertakings authorised to do business before the commencement of the Act are allowed to continue their business subject to their conforming with certain prescribed requirements. Undertakings not so authorised cannot carry on business without the express permission of the supervising authority, and in the case of foreign undertakings of the Imperial Chancellor.

(3) All undertakings, whether authorised under the old law or requiring permission under the new law, have to furnish particulars as to their constitution and as to the general conditions under which business is carried on by them. In the case of life insurance and similar companies, elaborate particulars as to the methods of calculating risks and forming reserve funds must be given. If the particulars to be supplied as aforesaid appear unsatisfactory to the supervising authority, permission to carry on business is, in the case of undertakings requiring permission, refused, and, in the case of previously authorised undertakings, withdrawn.

(4) Permission to carry on the business of life insurance and insurance against accidents, employers' liability, fire, or hail is not given to any persons or association other than mutual societies formed under the regulations laid down by the Imperial Statute, or incorporated companies with a capital divided into shares.

(5) Life insurance companies must out of the premiums received on all

outstanding business form a premium reserve, to be invested in certain prescribed forms of investment. In the case of foreign companies this premium reserve must be formed in respect of all insurance contracts made with German policy-holders, and must be deposited in Germany in such manner that no part thereof can be withdrawn without the concurrence of the supervising authority. No withdrawals from the premium reserve are permitted, except for the purpose of paying claims on matured or surrendered policies.

(6) The whole of the business of each insurance company is under the constant supervision and control of the supervising authority, who may inspect books and accounts, send delegates to the meetings, convene meetings, and make such orders prescribing alterations in the conduct of business as they may think fit, and may enforce such orders by the imposition of fines, and in extreme cases by the winding up of the undertaking and the appointment of a receiver representing the interests of the policy-holders.

(7) A foreign undertaking carrying on business in Germany must have a branch establishment in Germany, subject to the jurisdiction of the German Courts (which jurisdiction cannot be executed by contract between the insurance and the insured); it must also appoint a principal attorney with unlimited powers to enter into insurance contracts binding his principals, and being personally responsible for any penalties incurred by reason of disobedience to any lawful order made by the supervising authority. The Federal Council has power to order any foreign undertaking to discontinue its German business, notwithstanding the fact that such foreign undertaking has in every respect conformed with the provisions of German law.

It will be seen that these provisions are of a very stringent nature, and that in the case of foreign companies they operate with particular severity. Many English companies have abandoned their German business, having been advised that they could not consistently with the regulations by which they were governed submit to the requirements of the German supervising authority, more particularly in respect of the special appropriation of the German insurance funds and the necessity of giving unlimited powers to the principal German agent. Those English companies who have retained their German agencies can hardly have realised the effects of the new Statute.

5. ITALY.

[*Contributed by* Signor T. Giamini, *Commissario della Legge della Republica di S. Marino.*]

Commercial and Industrial Law in Italy.—Italian commercial law is for the most part contained in the Commercial Code of January 1st, 1883. This Code is divided into four parts: the first contains general and special rules with regard to commercial contracts; the second treats of maritime commerce and of shipping. This second part, however, is not complete without the Mercantile Shipping Code, October 24th, 1877, and the Statutes belonging to it. The latter Code establishes that ships for which a declaration of nationality is desired must belong to Italian citizens or to foreigners resident in Italy for at least five years. Nevertheless, foreigners, even if they are neither domiciled nor resident, may become shareholders in Italian ships to the amount of a third of the value of the ship. Foreigners who have not been domiciled or resident in Italy for so long as five years must, if they become shareholders to an amount greater than one-third, make over the excess of their shares within a year to some legally qualified person (Art. 40 and 41).

The third part of the Commercial Code is concerned with bankruptcy, the fourth with the actions in Courts of law. The first part treats especially of merchants. Merchants are defined to be those who, as a habitual profession, engage in commercial business, and this includes merchant companies (Art. 8). The definition is important because in Italy only merchants may pass through the Bankruptcy Court, and also because all business transactions concluded by merchants are regulated by commercial law (Art. 4), unless they be of an essentially civil character (*e.g.* wills, acts of adoption, etc.).

Infants, male and female, may carry on commerce, provided they be emancipated and authorised by their parents or guardians (Art. 9). A wife needs the consent of her husband, unless she be separated from him. This consent may be tacit—*i.e.* given by implication arising from conduct. It is sufficient that the husband, knowing that his wife is engaged in trade, do not oppose it (Art. 13). No distinction with regard to the right of trading is made between natives and foreigners.

Merchants are under an obligation to keep certain books, in which they shall register their business operations and their correspondence. These books must be *visé* by the judge in advance. The obligation lasts for ten years, and both books and correspondence may be called for, in case of a lawsuit, by the judge, or at the instigation of the defendant (Art. 21 *et seq.*).

A contract *inter absentes* is considered as concluded when the proposer

receives notice that his offer is accepted within the time which he has specified, or which is customarily looked upon as sufficient. So has the Italian Legislature decided the question as to when the acceptance is complete in the case of a contract *inter absentes* (Art. 36).

In commercial obligations, debtors are liable *in solidum* (Art. 40). Commercial debts bear interest immediately on coming to maturity (Art. 41), and the judge can accord no delay (Art. 42). Of interest with regard to international relations is the rule first made for letters of exchange and afterwards extended to all commercial contracts, by which the form and the essential requisites of commercial obligations are to be regulated by the laws and customs of the place where these obligations are entered into. The form of the deeds to be made out for the exercise and the preservation of the rights deriving from them, or for the execution and the effects of the deeds themselves, is regulated by the law of the place where the said deeds are put into execution (Art. 58), with the exception of contracts made abroad between two Italian citizens (Art. 9, Preliminary Dispositions, Civil Code), in which case the contracting parties are free to follow the national law common to both of them. According to this article, then, the right of contract and the form of a contract concluded abroad (*e.g.* a bill of exchange) is regulated by the law of the place where the contract is made; but when the contract is to be enforced in the Kingdom of Italy, then the forms established by Italian law are to be observed. With regard to sales, specific performance is authorised—that is to say, the tribunal may authorise the sale or the purchase of movable goods which should have been consigned, on behalf of the purchaser or seller, who has not fulfilled his agreements (Art. 68). The purchaser of visibly defective goods, coming from another market, must denounce their defects to the seller within two days of receiving them; otherwise the purchaser loses his right of lodging a complaint (Art. 70–5.)

Companies Civil and Commercial.—Commercial are distinguished from civil companies in that they have as an object the carrying on of one or more branches of commerce (Art. 76). Various reasons render important the distinction between civil and commercial companies, especially that the latter only may avail themselves of the bankruptcy laws.

Commercial companies are of three kinds: 1st, general partnerships, in which the members are liable for all debts incurred; 2nd, companies *in accomandita*, in which some members are liable to an unlimited extent, and others within certain limits; 3rd, joint stock companies, in which the liability is limited to the capital of the company, and no member is liable beyond the amount of his holding. None of these companies needs authority from the Government for its constitution; all that is needed is a written agreement brought before the public in the ways indicated in the code (Art. 90 *et seq.*). In general partnerships no change can be made in the business arrangements of the company except by the unanimous

consent of the partners (Art. 108). No partner may, without the consent of the others (Art. 112), enter on a course of competitive business.

In joint stock companies the trustees must give surety; they can perform no operations beside those indicated in the Act constituting the company (Art. 122). They are appointed by the general meeting for a time not longer than four years (Art. 124).

The promoters of a company formed of shareholders, be it *in accomandita* or be it joint stock, may reserve for their own profit no especial advantage or benefit in the way of shares, commissions, or anything else. They may reserve to themselves a part, not greater than one-tenth, of the net profits as shown in the annual state, and for a term of years not greater than five (Art. 127). The company is not constituted until the whole of its capital be subscribed, and until three-tenths of the capital, or a greater proportion, if it be so stated in the programme, have been actually paid in, or one-tenth only in the case of insurance companies (Art. 131). The trustees cannot acquire shares in the company on behalf of the company itself (Art. 144) When they see that the company's capital is diminished by one-third, they must call together the members, and take counsel as to what is to be done. If, on the other hand, it is diminished by two-thirds, the company winds up *ipso jure*, unless the members intend to pay in fresh sums of money or to make the capital smaller (Art. 144–6). Life insurance companies must invest in Government stock, and deposit the receipts for their holdings in the *Casa Depositi e Prestiti* (Government Safe Deposit), and one quarter of the premiums cashed at home and one half of those cashed abroad (Art. 145).

An ordinary meeting is held at least once every year, and notice is given of it at least a fortnight beforehand in the official gazette of the Kingdom of Italy (Art. 155). The trustees must call such a meeting together within a month, when a request to that effect is made by as many members as represent one-fifth of the company's capital (Art. 159). Members may delegate a non-member to represent them (Art. 160). The shares of the company may not be made payable "to bearer" until the entire amount they represent has been paid in (Art. 166). The company may issue debentures if this is agreed to by a certain majority (Art. 172). At least the twentieth part of the dividends must be added to the reserve fund, until this has become equal to the fifth part of the company's capital (Art. 182). Three or five assessors, members or non-members, keep watch over the way the company is carried on.

Co-operative societies do not form a class apart. Any of the three kinds of companies above mentioned may assume the form of a co-operative society. Its characteristic is the variability of the capital (Art. 129). No member may hold shares to an amount exceeding *Lir.*5,000 (£200), and the nominal value of each share may not be more than *Lir.*100 (£4) (Art. 224). Each member must be personally present at the meetings, and, however many shares he may hold, has but one vote (Art. 225). The Code

includes mutual insurance societies under the heading of commercial companies.

Legally constituted foreign companies—*i.e.* companies formed in accordance with the laws of their respective countries—may found an affiliated company or have a branch house in Italy, provided they fulfil all the formalities with regard to the publicity of the memorandum of association, of the articles of association, of the other deeds essential to the formation of the company, and of the states of accounts, as the national companies do. They must also publish the names of the directors and trustees of the branches established in Italy. If the foreign companies belong to neither of the three categories contemplated in the Italian Code, they must, if they wish to found a branch company in Italy, comply with the formalities there required for the establishment of joint stock companies; for it is on these that the greatest publicity of the deeds is imposed. The formalities are: the registration at the tribunal and the affixing in certain established places (exchange, town-hall, etc.) of copies of the memorandum of association and of the articles of association. The trustees of the foreign company undergo the same liability as do similar national trustees (Art. 230). Companies formed abroad for the sole purpose of carrying on business in Italy, where the principal aim of their enterprise exists, are considered as national companies. Hence the memorandum of association agreed upon in the foreign country is not valid unless it conform to Italian law. For this reason these foreign companies must deposit in the Court of Justice of the place where they wish to establish their headquarters their full memorandum of association, and fulfil the other rules regarding publicity (Art. 232).

Bills of Exchange.—Bills of Exchange are considered negotiable instruments, and Italian law on the subject much resembles the German law. No distinction is made between a bill of exchange and a promissory note, nor between an inland and a foreign bill, nor between a bill issued by a merchant or a non-merchant. All these bills are subjected to the same rules (Art. 251).

A bill of exchange may not be made out "to bearer." It may, however, be indorsed in blank (Art. 258). No bill may be made payable in separate fixed sums, nor may continued interest be promised upon it (Art. 254), nor can the judge accord days of grace. It is essential that the bill bear not only the name of the holder, the date of emission, and the other requisites, but also the title, "bill or letter of exchange," or "promissory note" (Art. 251). The omission of any essential requisite renders the bill of no effect. Only the bill payable at sight need be presented for acceptance. It must be presented within a year, or within a shorter time if so stated on the bill itself (Art. 261). Protest must be made on non-payment and on non-acceptance (Art. 304); but notice of such protest is necessary only in case of non-payment. The protest may be replaced only by a declaration signed by the debtor who refuses to pay; but this method is little used in practice (Art. 307). The

protest, however, on the declaration must be made not later than the second working-day after the day of maturity (Art. 296). There is thus no concession of a "reasonable time," the term fixed having to be rigorously observed; otherwise the right is barred (Art. 325). A protest is always necessary even to keep up the suit against the drawer when the bill is *domiciled—i.e.* payable in a different place and by a different person from the place and the person of the acceptor (Art. 316). It makes, therefore, no difference to the effects of the protest or to the other effects whether the bill be inland or foreign. It is a rule of prudence to protest in every case, to avoid losing all rights. To the third holder of the bill no remedies can be opposed except those arising from the want of form of the document, or from the want of observance of the necessary formalities—the protest, for instance, or its notification, or the defences arising from the personal relations of the holder and the debtor. The third holder in due course and *bonâ fide* may claim the value of the bill from all those who have signed it, even if the debtor for whom the bill was originally made out no longer exist (Art. 324) Rights originating in the bill are barred after the lapse of five years from the date of maturity (Art. 919). With regard to other matters, Italian and English law may be said to resemble each other.

One peculiarity of the bill of exchange in Italy remains, however, to be noticed—the way in which it may be enforced. According to Article 323 of the Italian Commercial Code, the bill, although a simple act by parole, may be enforced as a writ of summons—that is to say, that a bill dishonoured and duly protested may be consigned to the sheriff and by him enforced upon the goods of any of the debtors, except that these have the right of making a defence. Arrest for debt has been, in the case of bills of exchange, as in other cases, abolished (1877). This fact is also of importance with regard to the right of issuing such bills. Personal arrest having been abolished, women and non-merchants may bind themselves by a bill of exchange. Only, as married women not engaged in trade do not enjoy the same independence that they do in England, the consent of their husband is needed when the bill is intended for the performance of a contract which could not be entered upon by the woman without the consent of the husband. The consent of the Court is needed when there are conflicting interests between husband and wife, as would be the case of husband and wife were both to sign the same bill. Bills endorsed in blank, although not explicitly admitted by law, have become usual in practice, on the principle that the bill need not be entirely in the handwriting of the debtor, but that his signature is sufficient. The signature, however, is necessary (Art. 251), nor may a cross replace it in the case of a person who cannot write, even if the cross be attested by a notary. Hence, if a duly stamped bill of exchange has once been signed, it can be filled up by any holder, and any third *bonâ-fide* holder into whose hands it may fall may exact payment for it.

Lost bills may be declared inefficacious by a procedure of amortisation,

which tends to guarantee the creditor his rights. Such procedure consists in bringing the affair to the notice of the public in accordance with the directions of the Court. But any third person who should *bonâ fide* have acquired possession of the lost bill—that is, who should have become the legal holder of it—would preserve his rights in spite of the procedure.

The Code associates with the bills of exchange the rules for *ordini in derrate*, which are bills much in use in Southern Italy, having for this object the consignment of natural products, such as grain, etc. (Art. 333 *et seq.*), and cheques which are considered as bills of exchange (Art. 341).

The Code proceeds to give rules for commercial agents in general and in their special forms: clerks, commercial travellers, and general agents of a commercial house. These agents sign for their principals, and may enter on no business which would compete with theirs. But even if they sign in their own names, either their principals or they themselves are liable to be sued on contracts relating to the commerce for which they are responsible (Art. 371–2). The position of agent may be conferred verbally or by a parole act of power, in which case there are certain formalities to be observed. In this second case alone can limitations be imposed on the powers of the agent. These and other rules apply to the agents who carry on business in Italy on behalf of foreign houses and companies (Art. 376).

Contracts for Carriage.—Contracts for the carriage of goods are generally made by means of a bill of carriage, and the carrier is liable, on behalf of his dependants and of all successive carriers to whom he may entrust the transport of the goods (Art. 390–8). Railway companies are allowed to limit their liability in certain cases and according to certain rules. As to delay, the carrier is not liable if it is occasioned by an act of God or by unavoidable circumstances. In all other cases he loses a part of his charge of carriage, and the entire charge if the delay has lasted for double the time agreed upon for the consignment of the goods (Art. 403).

The carrier is not liable for valuables, money, jewels, and precious objects which have not been declared (Art. 406). The payment of the charge and the receiving of the goods without protest free the carrier from all liability. But if the loss or the damage were not apparent when the goods were delivered, compensation may be claimed, provided not more than seven days have passed after the delivery (Art. 415). When the goods have been carried by several carriers, the first or the last may be prosecuted, or any other who may be proved to have caused the damage (Art. 411).

Insurance Contracts.—Insurance contracts must be made in writing (Art. 420), and re-insurance is allowed (Art. 422). The insurance may be a life insurance, or against loss or damage to property. Insurance is null when the insuring party knew that the damage had already occurred or that the risk had ceased (Art. 430). The insured person must give notice

to the insurer within three days after the damage has happened or after it has come to his knowledge (Art. 436). The insurance begins to run at the noon which follows the date of the policy (Art. 443). Anyone can insure the life of a third person provided he have an interest in it (Art. 449). Insurance is null if death takes place in a duel or by suicide (Art. 450). In case of death the payment on the insurance policy goes directly to the beneficiary, and forms no part of the inheritance (Art. 453).

Next come some rules regarding docks and commercial pledges. Goods are deposited in the docks by means of warrants.

Bankruptcy.—As stated above, the Bankruptcy Court is open to merchants only, be they aliens or Italian subjects. Proceedings for bankruptcy may be taken by the bankrupt or by the creditor of a commercial debt, or may be declared by the Court. The amount of the debt is indifferent: a small sum is sufficient, provided its non-payment be a proof of insolvency. Bankruptcy is declared only when insolvency occurs. The *bonâ-fide* refusal to pay one or more commercial debts does not constitute insolvency. The judgment declaring bankruptcy dates the commencement of insolvency.

All contracts entered by the bankrupt after judgment has been given are null, as are also certain acts performed in a period anterior to the judgment. This period varies according to circumstances (Art. 707, etc.).

The same judgment deprives the bankrupt of the administration of his affairs, and names a trustee to realise his property, under the superintendence of a judge, and a commission of creditors (Art. 691). All the property, movable and immovable, is sold by auction, and the state of the dividends must be approved by the judge (Art. 798).

Goods that had been consigned in deposit or that had been sent off, but had not yet reached the bankrupt, may be claimed back by their proprietors (Art. 802). Bankruptcy is closed either by the distribution of the dividends or by the absence of anything which can produce dividends, or by an arrangement. No minimum percentage is imposed for the validity of the arrangement; there must, however, be a majority of creditors of such a kind as to represent three-fourths of the entire debts of the bankrupt. Italian law recognises also the *moratoria* (Art. 819 *et seq.*), which grants a term not exceeding six months, during which no legal steps can be taken against the creditor.

Composition before bankruptcy is not recognised by Italian law. A Bill on this subject will, however, shortly be placed before Parliament. It will resemble the law of Switzerland, and in some parts that of England. According to this Bill, agreement both before and after bankruptcy is subject to the approval of the Court.

Independently of bankruptcy proceedings, criminal proceedings may be taken against the bankrupt, who is liable to a punishment more or less heavy, according to circumstances, if, for instance, his books have not been kept in the way prescribed by the law. But the bankrupt who has concluded

an agreement may, in the less important cases, be exempted from the punishment (Art. 839), provided he fulfil his agreement.

Commercial Procedure.—In the book (IV.) of the Code that treats of legal actions we must notice the rule according to which the deed, if it be commercial for one of the contracting parties, is altogether subject to commercial law. Commercial Courts no longer exist, but there does exist a commercial procedure which has these two characteristics: (*a*) The proceedings are rapid; (*b*) the collection of evidence is more extended than in civil cases—and especially the evidence of witnesses is always admitted, which is not the case in civil matters.

The limitations for lapse of time are also shorter in commercial matters. Actions concerning trade company matters as well as those arising from bills of exchange, are fixed at five years; at two years, those taken by brokers and for the annulling of an agreement with creditors; at one year, those arising from insurance contracts; at six months, those arising from contracts for the carriage of goods (Art. 915 *et seq.*); at ten years, all the others.

The most important complementary laws included in the Commercial Code are as follows:

Chambers of Commerce (Law of July 6th, 1862).—All merchants may be members of these Chambers, as well as those who carry on an industry or an art, sea-captains, managers of factories of all kinds and of commercial companies. Foreigners who have been carrying on commerce or arts for at least five years, and who possess the requisites which would give a citizen political rights, may also become members.

Stock Exchange Contracts (Law as to September 13th, 1876).—This law declares valid the so-called time-bargains, provided they be made out on papers duly stamped *ad hoc.* Bargains not made on these Schedules are void and cannot be enforced.

Patent Law (October 30th, 1859).—No patents will be granted for illegal or immoral inventions, for medicines, or for discoveries of a purely theoretical nature (Art. 6). The patent is no guarantee of the novelty or of the utility of the discovery (Art. 7). The duration of the patent is fixed at not less than one year, nor more than fifteen (Art. 10). If the invention has already been patented abroad, the duration of the patent in Italy will be equal to its duration abroad, and in any case cannot extend beyond the fifteen years (Art. 11). The fees for the patent are calculated at *Lir.*10 (8*s.*) for every year over which the patent is to extend, plus an annual fee of *Lir.*40 (£1 12*s.*) for the first three years, to be increased every three years till it reaches *Lir.*140 (£5 12*s.*) for the last three years (Art. 14). The patent is transferable, and its transfer takes effect only from the day of its registration at the Patent Office (Board of Trade). Infringement of a patent is punishable by a fine of not more than *Lir.*500 (£20), and the registration of all tools used in the imitation of the patented object on behalf of the injured patentee, who may also bring an action at law for damages.

Trademarks (Law of August 30th, 1868).—The signature of the producer, engraved or reproduced by mechanical means on any object, is considered as a trademark (Art. 1). No merchant may copy or destroy a trademark (Art. 3). The certificate of the registration of a trademark guarantees neither the novelty of the trademark nor the excellence of the products, but only the moment of application (Art. 9). The trademark must be different from those already used by others, and must contain the name of the place of origin or of the manufacture in such a way as to reveal also the name of the merchant or of the manufacturing company (Art. 2).

The Law of March 25th, 1900, directed against frauds in trade and in the preparation of wines, visits the artificial preparation (adulteration) of wines for sale with a fine not less than *Lir.*100 (£4), and with the maximum punishment if the adulterated wines are meant for exportation. Foreign wines do not enjoy the right of free warehousing, and may undergo no manipulation in Italy. Should imported wines be contained in recipients, so marked as to cause the belief that they are of Italian growth, they must be confiscated. The Statute ordains that foreign wines imported into Italy must bear the name of their place of origin, and that the decanting from one vessel to another and filtration are not forbidden operations.

Wines are legally not genuine when they are not made from grapes or when they have had added to them substances which, though forming part of the wine, alter its composition, and any foreign substance such as salicylic acid, saccharin, alum, etc.

Alcohol may, however, be added to a moderate extent, as may those bitter and aromatic substances permitted the Public Health Laws.

Industrial and Social Legislation.—Italian legislation has been of late years enriched by several laws with regard to workpeople, and especially with regard to the prevention of accidents during work: March 17th, 1898, lately modified; the law of July 17th, 1898, instituting a national savings bank for workmen, and modified on July 28th, 1901; the law concerning the work of women and children, bearing the date June 19th, 1902; the law which institutes a labour office, June 29th, 1902.

Other Bills regarding labour, abstention from work on holidays, and the housing of workmen will be shortly laid before Parliament by the Chamber of Deputies, and are now before the Senate.

6. SWEDEN.

[*Contributed by* NILS SETTERWALL, ESQ., *Legal Adviser to the British Embassy at Stockholm.*]

Shipping.—The Law of Mortgages of Ships, May 10th, introduces the principle, new for Sweden, that any ships of twenty tons register burden or upwards, which are entered in the Shipping Register, may, by the consent of the owner, be mortgaged as security for any debt for a definite sum of money, the execution of such mortgage to constitute a pledge on the ship in favour of the creditor, including all belongings of the ship except as regards provisions and fuel, and, in the case of a steamer, the coals and other requisites for the working of the engines.

It shall not be lawful to execute such a mortgage upon a part-share in a ship nor upon more than one ship for the same debt. Nor shall the security entailed by the mortgage be enforceable upon any single share in the ship mortgaged. The mortgage is to be renewed before the lapse of every ten years' period after the date of its execution.

The priority of the holder of a mortgage on a ship is determined by a separate Law of even date.

This Act consists of thirty-nine sections dealing with the subject.

Law Court Procedure.—The Law to amend certain provisions of the Litigation Act, June 17th, repeals and alters certain sections of that Act, thereby partially reforming the system of procedure in the Courts of justice ruling since 1736. It treats of the following subject-matters, *inter alia*, viz. (1) the discretion of the Courts in the exercise of their jurisdiction; (2) the effect of defective service of writs of summonses; (3) exceptions; (4) the deliberations upon judgments; (5) the remedies available against judgments passed by inferior Courts.

Army.—The Conscription Law, June 14th. Under this Law every male Swede is liable to conscription from and after the calendar year during which he shall attain the age of twenty-one up to and including the year in which he shall arrive at the age of forty, such liability also to attach to any one who shall have attained the rights and privileges of a Swedish citizen in the year of his attaining twenty-one years of age, or thereafter, from, and after, the year next following the one in which such rights and privileges shall have been obtained.

Military service is to be performed in the ranks of the conscript army (Bevăringen), divided into the first and second levy and the general levy (Landstormen). The time of actual service for training required of the conscript in time of peace is either 240 or 365 days (for the navy 300 days), according to the arm of the service to which he is attached. For the first eight years a conscript soldier belongs to the first levy, for the next four years to the second levy, and subsequently to the Landstorm, or general levy.

In time of war, however, necessity will regulate the term of service of the men levied. Whosoever is incapable of service for the defence of the kingdom by reason of bodily defect, continued illness, permanent physical weakness, or by reason of any other cause of a similar kind is exempted from performing compulsory service.

A conscript shall serve his allotted term in that arm of the services, naval or military, in which he shall have been enrolled or to which he may subsequently have been assigned. The service of the general levy is confined to the defence of the home.

The Law contains fifty-two sections relative to the subject.

Workmen's Compensation for Accident.—The Act respecting workmen's compensation for injuries sustained from accident in the performance of work, July 5th, embraces twenty-seven sections upon the subject. Under this Act, where a workman is injured by accident in the performance of his work, his employer, if he follows one of certain specified trades, shall be liable to compensation for the so sustained injury, in accordance with the principles laid down in the Act, except in cases where the injured party shall have intentionally, or by gross negligence, brought the injury upon himself, and, likewise, in cases where the accident shall have been occasioned by some other person not exercising control or supervision over the work.

A National Insurance Office is to be established by the Government—and is now (1902) in operation—for the taking over of employers' liability of compensation, where employers shall be entitled to insure their workmen against accidents within this Act, with the effect that they will be exempted, to the extent of their insurance, from all liability to pay compensation under the Act. Any claim for compensation shall, to prevent its being outlawed, be brought against an employer within two years, and, upon the said Insurance Office within three years counting from the date of the accident, or, in the case of death, from the date of its occurrence, unless otherwise agreed by the parties during the said term. The right to compensation under the Act is not transferable and shall accordingly not be distrainable for debt.

Usury.—The Usury Ordinance, June 14th, enacts that whosoever in lending money or granting a delay in the redemption of a debt shall take advantage of the dilemma, imprudence, or recklessness of another person to secure to himself, or to stipulate to his own advantage or for the benefit of somebody else, a valuable consideration evidently in excess of what under the circumstances would be an equitable amount of interest, shall be liable, apart from the bargain being, on the face of it, an arrangement for other purposes than the lending of money or the granting of a delay of payment, to a fine of from twenty-five kroner (Swedish) to, but not exceeding, 1,000 kroner, or to imprisonment for a term not exceeding one year, always provided the crime shall not be punishable

under the criminal law. This Law shall equally apply in cases where anybody having obtained a debt known by him to have originated by usury shall collect, or enforce, or transfer to somebody else, any portion of the debt in excess of what shall be lawfully due.

On usury being committed, as aforesaid, any excess of the amount of the money lent, or of the debt at the time of the grant of delay, shall, notwithstanding the bargain, be irrecoverable, and, if recovered, it shall be reclaimable. In cases where a debt upon a bond has been satisfied to a third party being the lawful holder of the bond, a cause of action for compensation shall lie for the debtor against the usurer. Where several persons are parties to the usury they shall be liable to pay such compensation each for the other jointly and severally.

Trade Marks.—Under the Royal Proclamation respecting the protection of Russian trade marks, November 29th, having reference to a declaration of mutual protection of trade marks in Sweden and Russia, which was concluded on October 26th of the year next preceding, the protection of trade marks provided by the Law on the subject dated July 5th, 1884, is extended to the States of his Majesty the Emperor of Russia.

Family Names.—By a Royal Ordinance, December 5th, the right of assuming a new family name and having it duly entered upon the appropriate parish register is recognised, with certain restrictions—including the requirements, in some specified cases, of a special permission from the proper authorities being obtained, and subject to the observation of certain specified proceedings in connection therewith.

7. UNITED STATES OF AMERICA—STATE LEGISLATION.

[*Contributed by* R. Newton Crane, Esq., *of the Middle Temple.*]

There are forty-five States and four Territories comprised within the United States of America, each of which has independent law-making power. Notwithstanding the fact that in all but seven of these States the legislature meets only biennally, and in one only quadrennially, there were no less than 11,425 laws in the aggregate passed by these States between October 1st, 1900, and September 30th, 1901. Nor is this all; for in addition to these laws 2,765 "resolutions"—that is, joint and concurrent resolutions, many of which have the effect of laws—were passed. Even these figures fail to convey a proper idea of the volume of the output of the various State law-making machines, for the statistics from which they are derived embrace only those laws which are sufficiently general in their nature as to justify their inclusion in the *Comparative Summary and Index of Legislation* which has been compiled for the New York State Library

In this summary are included, for illustration, only ninety laws and resolutions passed by the legislature of Alabama, whereas in fact that body in 1901 promulgated no less than 1,132 laws and resolutions. It is fair to assume that this represents the average output of each of the other States.

Restriction of Legislation.—It can hardly be considered remarkable, in view of these facts, that a growing distrust of the legislature is apparent in almost every American State. For the past fifty years this distrust has been growing, and has been evidenced by more or less successful movements in favour of restricting the meetings of the legislatures to biennial or triennial sessions. The only States in which the legislature now meets annually are Georgia, Massachusetts, New Jersey, New York, Rhode Island, and South Carolina. The most recent change is in Alabama, which has adopted a new constitution with a provision that not only shall the legislature meet only once in four years, but that the regular sessions shall be limited to fifty days. Special sessions limited to thirty days may be called by the Governor, but no Acts may be passed other than those designated in the Governor's proclamation calling the session, except by a two-thirds vote. In many other of the States the time to be occupied in legislation is restricted, not only to prevent legislators from drawing pay for doing no work, as was too often the case when the *per diem* pay was a larger amount than in many instances they could earn at home, but to limit the making of badly framed and little needed laws. The distrust of the legislature is further shown by the laws passed either at the various sessions in 1901 or to come into effect in that year for direct legislation.

Direct Legislation.—South Dakota has proposed an "initiative" as well as a referendum. The use of the initiative is regulated as follows: If a proposed measure is signed by 5 per cent. of the electors of the State, it is the duty of the legislature to enact the proposed law and to submit it to a vote of the electors at the next general election. The referendum may be had on any law enacted, except laws which may be necessary for the immediate preservation of the public peace, health, and safety. Utah in November, 1894, adopted a constitutional amendment providing for the initiative and referendum, but the legislature of 1901 refused to pass the necessary legislation to put the amendment into effect. Oregon submitted an initiative and referendum amendment to vote in June, 1902, the effect of which is to make the voters practically independent of the legislature. If 8 per cent. of the electors file a petition with the Secretary of State for the submission of a proposed measure to the popular vote, it must be so submitted without any action by the legislature. The legislature may, on the other hand, not more than ninety days after the close of the session, submit any Act to the people without a petition being filed. Nevada has referred to the legislature of 1903 a constitutional amendment providing that whenever 10 per cent. of the electors petition that any law or resolution passed by the legislature be submitted to the people, the State officers

charged with the duties of announcing and proclaiming elections shall submit the law to popular vote at the next general election. If the electors disapprove the law, it is in effect repealed, but if the electors approve it, it cannot be repealed or in any way be made inoperative except by a direct vote of the people. An Act providing for a mere expression of opinion by electors on questions of public policy has been adopted by Illinois. On petition of 25 per cent. of the registered voters of any town, village, or school district, or of 10 per cent. of the registered voters of the State, it is the duty of the proper election officers to submit any question of public policy at any general or special election. The petition must be filed sixty days before the date of the election, and not more than three propositions may be submitted at the same election. Questions submitted are printed on separate ballots.

In addition to these attempts to give direct expression by the people themselves to their wishes, so far as making new laws is concerned, there is apparent an inclination to tie the hands of legislators by providing that they shall be powerless in certain fields of legislation hitherto open to them. New York, for example, has adopted a constitutional amendment forbidding her legislature to pass special laws exempting persons or associations from taxation. Oregon has proposed a constitutional amendment prohibiting the formation of corporations by special laws. The constitutions of most of the States have for some years contained clauses preventing special legislation, but these have frequently been avoided by Acts which, while apparently relating to a class of persons or subjects, were in reality directed to special persons or matters. In the new constitution of Alabama occur the most drastic restrictions on special legislation which have thus far appeared in an American constitution. It is provided that special private or local laws are not to be passed in certain specified cases. These include incorporation or amendment of the charter of municipal or private corporations, exemption from general laws, regulating the rate of interest, granting divorces, permitting the issue of bonds by municipalities without the vote of the electors, providing for the conduct of elections, restoring the right to vote to persons convicted of infamous crimes, etc. In order to make impossible the evasion of these restrictions through judicial interpretation, the meaning of "general," "local," and "private" law is defined as follows:—

> A general law within the meaning of this article is a law which applies to the whole State; a local law is a law which applies to any political sub-division of the State less than the whole; a special or private law is one which applies to an individual, association, or corporation.

A competent American authority says that this definition of a local Act is the most sweeping possible, and that under it the legislature will be forced to pass a uniform law for the government of municipal corporations

which will almost of necessity either give each municipality large powers of home rule or confer on some central board the powers of supervision heretofore so unsatisfactorily exercised by the legislature.

Marriage.—After January 1st, 1902, marriages between first cousins are void in Pennsylvania. A similar law was passed in Louisiana, but it was pronounced unconstitutional because of an informality in its enactment. In Minnesota epileptic, imbecile, feeble-minded, and insane persons are not to marry—except when the woman is over forty-five. In New York common law marriages are abolished and a written contract and witnesses are now required. The contract must be filed within six months with the town or city clerk. In New York marriages are not invalid for want of authority of the officer solemnising the marriage, or for clerical errors. In North Carolina a registrar of deeds is declared not liable for issuing a marriage licence unlawfully if reasonable enquiry was made personally or by deputy.

Divorce.—There is an indication in recent legislation of a desire to make the divorce laws of the western States more in accordance with conservative sentiment. In Wyoming, where theretofore six months' residence was necessary before the plaintiff could bring his action, a residence of one year is now required, unless the marriage was solemnised in the State and the applicant has lived there continuously since. Oddly enough, while Florida has enacted a law providing that incurable insanity shall be a ground for divorce, North Dakota has adopted an Act providing that incurable insanity shall not be a ground for divorce. In North Dakota divorced persons may not marry within three months, in Minnesota within six months, and in Wisconsin within one year. These provisions, however, may be easily avoided by the parties marrying in another State where no such restrictions prevail. In Minnesota it is a misdemeanour to solicit divorce business.

Gambling.—No less than eleven States have made the keeping of automatic, or penny-in-the-slot, machines a misdemeanour. In Arkansas it is a misdemeanour to keep gambling devices or to rent a building for gambling. In Minnesota minors are prohibited from frequenting billiard-rooms. In New Mexico it is made the duty of the sheriff to inspect gaming-places and drinking-saloons quarterly, and to close such places and to bring actions against the proprietors for violation of the law. In Texas card-playing or betting on card games at places other than private residences is prohibited. In Massachusetts a wagering contract in stocks or commodities where no purchase is intended is a misdemeanour, and lack of the seller's ownership is evidence of the wagering contract.

Intoxicating Liquors.—Laws relating to the regulation of the sale of drink were enacted by thirty States in 1901, and while the greater part of such legislation is probably intended to remedy defects in existing laws, none of it contains distinctively new features. Local option appears to gain ground over absolutely prohibitory measures, and "high licence" over

persons are to be isolated, and members of the household are required to abstain from visiting public places and private houses, and public funerals are forbidden. In Vermont it has been enacted that retail milk dealers using milk tickets shall have them printed in coupon sheets, and the coupons when detached are not to be used a second time, but destroyed. New Mexico forbids the employment of tuberculous teachers in the schools. Nine States require that the bodies of persons dying of communicable diseases be embalmed, and that embalmers be examined and licensed. Eight States passed laws to regulate and license barbers and barbers' shops. The California law provides for a State licensing board to consist of three competent barbers, who are to hold examinations in certain cities three times a year. The applicant for a barber's licence must, among other things, know how to care for his tools and "to avoid the aggravation and spread of skin diseases."

Indeterminate Sentences and Parole and Probation of Prisoners.—Connecticut provides for indeterminate sentences for prisoners, except those sentenced for life; the Courts to fix the maximum and the minimum terms. After serving the minimum term, the prisoner may be paroled and finally discharged for good behaviour. The prison directors and the wardens constitute the board of parole. New York, New Hampshire, Minnesota, Michigan, California, Indiana, and Vermont enacted somewhat similar laws. In most of them a paroled convict who misbehaves himself is punished as one who escapes from prison. New York and Vermont have followed the lead of Massachusetts in the enactment of a probationary law, and it is now in effect in a number of States. Under its provisions certain Courts are authorised to appoint probation officers to investigate the character and previous record of the accused and to impose terms of probation in lieu of sentence or execution of sentence.

becomes *ipso facto* vacant, and the coroner succeeds to the duties, but the Governor of the State may, after hearing and investigation, reinstate the sheriff. The new constitution of Alabama provides that "whenever any prisoner is taken from gaol, and from the custody of any sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, connivance, cowardice, or other grave fault of the sheriff, such sheriff may be impeached. If convicted, he shall not be eligible to hold any office in the State during the time for which he has been appointed or elected."

Administration of Justice.—In Wyoming a summons, writ, or order in civil actions may be transmitted by telegraph or telephone. In North Dakota a copy of the summons may be served by registered letter. The Colorado Act permitting three-fourths of the jury to render a verdict in civil cases has been pronounced unconstitutional. In Missouri, however, nine out of a jury of twelve may render a verdict. In Montana the Court may charge the jury in writing before the arguments of counsel. In New Jersey the judge may order the debtor to pay the judgment in instalments when execution is returned unsatisfied. This is a new practice in America. In North Carolina, if the plaintiff gives five days' notice of his intention to bring an action for libel, and the article complained of was published in good faith and is corrected, the damages are limited to one penny and costs. In Pennsylvania only one action may be brought in the same county for the same libel. In certain counties in Arkansas and Florida the sheriff may buy two bloodhounds to track offenders. Missouri has adopted the Bertillon system of identification of criminals. Colorado has restored the death penalty, and in Arkansas the execution of one convicted of rape must be in public. In North Carolina all executions are to be in private. Florida makes homicide justifiable in defence of relatives, guardians, and wards. Several States increase the penalties and raise the age of females in the case of sexual crimes. The comparatively recent kidnapping of a child in Nebraska drew attention to the fact that not only in that State, but in several of the States, there was no definition of the crime of kidnapping and no penalty attached to it. The result is that twenty-four States passed laws last year relating to kidnapping and abduction. The penalties are very heavy, ranging from death or a minimum of five years' imprisonment in Alabama, Delaware, Missouri, and Nebraska, to a maximum of ten years' in a number of States. In Delaware a husband may at the discretion of the Court be whipped, fined, or imprisoned for wife-beating.

Public Health and Safety.—In Kansas, Montana, and New Hampshire elaborate statutes have been enacted to prevent contagion or infection from persons suffering from communicable diseases. The Kansas law requires the attending physician and the householder to report the existence of any case, and to placard the house with the name of the disease. All

persons are to be isolated, and members of the household are required to abstain from visiting public places and private houses, and public funerals are forbidden. In Vermont it has been enacted that retail milk dealers using milk tickets shall have them printed in coupon sheets, and the coupons when detached are not to be used a second time, but destroyed. New Mexico forbids the employment of tuberculous teachers in the schools. Nine States require that the bodies of persons dying of communicable diseases be embalmed, and that embalmers be examined and licensed. Eight States passed laws to regulate and license barbers and barbers' shops. The California law provides for a State licensing board to consist of three competent barbers, who are to hold examinations in certain cities three times a year. The applicant for a barber's licence must, among other things, know how to care for his tools and "to avoid the aggravation and spread of skin diseases."

Indeterminate Sentences and Parole and Probation of Prisoners.—Connecticut provides for indeterminate sentences for prisoners, except those sentenced for life; the Courts to fix the maximum and the minimum terms. After serving the minimum term, the prisoner may be paroled and finally discharged for good behaviour. The prison directors and the wardens constitute the board of parole. New York, New Hampshire, Minnesota, Michigan, California, Indiana, and Vermont enacted somewhat similar laws. In most of them a paroled convict who misbehaves himself is punished as one who escapes from prison. New York and Vermont have followed the lead of Massachusetts in the enactment of a probationary law, and it is now in effect in a number of States. Under its provisions certain Courts are authorised to appoint probation officers to investigate the character and previous record of the accused and to impose terms of probation in lieu of sentence or execution of sentence.

BRITISH EMPIRE.

I. UNITED KINGDOM.[1]

[*Contributed by* J. M. Lely, Esq.]

Acts passed—Public General, 40; Local, 281.

Out of some three hundred bills submitted in the Session of 1901 to Parliament, only forty received the Royal assent—a much smaller number than during any year within living memory. The average output of public Acts for the last ten years was 62; that of 1837 was 91; of 1847, 115; of 1857, 85; of 1867, 146; of 1877, 69; of 1887, 73; and of 1897, 67—an average of 92 in ten representative years of the late reign. Of four bills of great constitutional importance, however, the Civil List Bill, the Demise of the Crown Bill, the Royal Titles Bill, and the Royal Declaration Bill, the three first-named became law. The Youthful Offenders Act, the Education Act, the Education (Scotland) Act, the Larceny Act, the Sale of Liquors to Children Act, and the Public Libraries Act have each made a mark in its own sphere; and consolidation, which had been a stranger to the Statute-book since the Friendly Societies Act of 1896, reappeared at last in a Factory and Workshop Act.

It is proposed in this article to give an account of the principal Acts passed, supplying where necessary the information which the Legislature too frequently gives by reference only to other Acts. The three Acts relating to the Crown will be dealt with first, and the remaining Acts noticed afterwards will be under alphabetical titles.

The Crown.—The Civil List Act (No. 4, B.E.) opens with the recital—which originated with the Act of George III.—that his Majesty the King "had been graciously pleased to signify to his faithful Commons that his Majesty placed unreservedly at their disposal those hereditary revenues which were so placed by his predecessor," and was "desirous of making

[1] This article is mainly a reproduction of three articles in the *Times* of October 15th, October 20th, and November 19th, 1901, and of the summary prefixed to the continuation for 1901 of *Chitty's Statutes of Practical Utility.*

The letters B.E., U.K., E., S., and I., which follow the short titles of the various Acts, signify application to the British Empire, the United Kingdom of Great Britain and Ireland, England, Scotland, and Ireland respectively.

competent provision for the honourable support and maintenance" of his son, his daughter-in-law, and his daughters (naming these five Royal personages), and that similar provision should be made for her Majesty the Queen and the Duchess of Cornwall and York in event of their surviving the King and the Duke respectively. The declaration follows that "his Majesty's dutiful and loyal subjects, the Commons of the United Kingdom, have freely and voluntarily resolved to make provision for the purposes aforesaid," and then comes the enactment that—

> The hereditary revenues which were by s. 2 of the Civil List Act, 1837, directed to be carried to and made part of the Consolidated Fund shall, during the present reign and a period of six months afterwards, be paid into the Exchequer, and made part of the Consolidated Fund.
>
> There shall, during the present reign and a period of six months afterwards, be paid for the King's Civil List the yearly sum of £470,000.

The Act of 1837, which provided for a yet unmarried Queen, had granted her late Majesty the yearly sum of £385,000, and its second section thus incorporated directed that—

> The produce of all the hereditary rates, duties, payments, and revenues in England, Scotland, and Ireland respectively, and also the small branches of the hereditary revenue and the produce arising from the small branches of the hereditary revenue, and the produce of the hereditary casual revenues arising from any droits of Admiralty or droits of the Crown and from the surplus revenues of Gibraltar or any other possession of her Majesty out of the United Kingdom, and from all other casual revenues arising either in the foreign possessions of her Majesty or in the United Kingdom, which were surrendered by his late Majesty King William the Fourth, for his life, and which upon the demise of his said late Majesty became payable to her present Majesty . . . which shall accrue during the life of her present Majesty . . . save and except the hereditary duties of excise on beer, ale, and cider in Great Britain, shall be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and after the decease of her present Majesty (whom God long preserve) all the said hereditary revenues shall be payable and paid to her Majesty's heirs and successors.

This sweeping clause seems to comprehend every possible source of a Sovereign's revenue except the Duchy of Lancester lands and the hereditary beer duties, including therefore Crown lands, treasure trove, escheats of the property of subjects dying without known legitimate representatives, ownerless property such as that of a defunct corporation, gold and silver mines within the meaning of an Act of William III., and wrecks to which the owner cannot establish his claim within a year—a species of property frequently dealt with by legislation, and now by the Merchant Shipping Act, 1894—though not perhaps the whales and sturgeons, the taking of which, says Blackstone, "is the exclusive right of the Prince."

Of the property surrendered by his Majesty, it is difficult to estimate the exact amount. The Chancellor of the Exchequer put the net receipts of the Crown lands at £420,000 a year (being nearly double their amount at

the time of Queen Victoria's accession), and the net receipts of the minor hereditary revenues at £32,000 a year, and, on a review of the whole financial situation, told the House of Commons that no more than £33,000 a year during the next sixteen years would be the average charge upon the taxpayers of the country. The hereditary beer duties (to be spoken of presently), the Post Office revenue mentioned as one of the "small branches" of the hereditary revenue in an early Act of Queen Anne, which also includes as another small branch the first fruits and tenths of the clergy, soon afterwards turned into "Queen Anne's Bounty," all at one time formed part of the Royal revenue.

The Demise of the Crown Act (No. 5, B.E.) briefly provides that—

> The holding of any office under the Crown, whether within or without his Majesty's dominions, shall not be affected nor shall any fresh appointment thereto be rendered necessary by the demise of the Crown, and this Act shall take effect as from the last demise of the Crown.

A word should be said as to the statutory position of the judges. As is well known, the Act of Settlement of William III. first made their office tenable during good behaviour instead of during the pleasure of the Crown; and that provision is repeated in the Judicature Act of 1875 (that of 1873 having a little oddly made the office tenable for life) in relation to the Supreme Court. One of the first Acts of George III., effectuating a declaration by his Majesty from the Throne to both Houses of Parliament "that he looked upon the independence and uprightness of judges as one of the best securities to the rights and liberties of his loving subjects, and as most conducive to the honour of his Crown," and effectuating also, "in return for his paternal goodness, the wise, just, and generous purpose of his Royal heart," enacted that judges should, as hitherto, continue in office during good behaviour, and, further, should so continue notwithstanding the demise of the Crown. The Civil Procedure Acts Repeal Act of 1879 had repealed this Georgian Act with a host of other old-fashioned enactments; and, notwithstanding the very comprehensive saving by that Act of any jurisdiction or principle or rule of law or equity established or confirmed by it, the technical point might possibly have arisen that Judges were still within the Succession to the Crown Act of 1707—with the effect that their offices would have determined at the end of six months from January 22nd, 1901. This ghost of a doubt is now laid for ever.

The Royal Titles Act (No. 15, B.E.) enacted that—

> It shall be lawful for his most gracious Majesty, with a view to the recognition, of his Majesty's dominions beyond the seas, by his Royal Proclamation under the Great Seal of the United Kingdom issued within six months after the passing of this Act, to make such addition to the style and titles at present appertaining to the Imperial Crown of the United Kingdom and its dependencies, as to his Majesty may seem fit.

Much controversy arose in Parliament on the question whether the Act itself should contain the words of the new addition, or whether the framing of them should be left to his Majesty the King. The two precedents followed were themselves a departure from the precedent set by Henry VIII., the influence of which is traceable in the Proclamation of 1876 under the Royal Titles Act of that year recognising the transfer of the Government of India from the East India Company to the Crown. Henry's title was altogether statutory, being derived from an Act of 1543. That Act, after reciting that the King had heretofore been known as "King of England, France, and Ireland, defender of the faith and of the Church of England and also of Ireland, in earth supreme head," directed that all his Grace's subjects should take his Majesty's style as follows:—"In the Latin tongue by these words—'Henricus Octavus Dei gratiæ Angliæ Franciæ et Hiberniæ rex, fidei defensor, et in terra ecclesiæ Anglicaniæ et Hiberniæ supremum caput'; and in the English tongue by these words—'Henry the Eighth, by the grace of God King of England, France, and Ireland, defender of the faith and of the Church of England and also of Ireland, in earth the supreme head.'" The Act was with many other Acts "against the see apostolick" repealed by one of the early Acts of Philip and Mary, and the repeal was confirmed in general words by the first Act of Elizabeth (the Act of Supremacy), which expressly repealed many Philippo-Marian Acts, and expressly revived many of the Acts "against the see apostolick"; but the words "Defender of the Faith" are part of the Queen's style in the title of Elizabeth's Act of Supremacy, and in subsequent Elizabethan Acts as printed in the statutes of the realm from the Roll of Parliament. "Nor have Catholics," observed the late Father Bridgett, C.S.S.R. (*Congregationis Sanctissimi Redemptoris*), in his learned pamphlet on the subject (in which Henry's Act of 1543 is treated as revived by the Elizabethan Act), "any difficulty in giving this title to Protestant Kings and Queens, since a title indicates what a man should be, not always what he is." No doubt, however, the title was solemnly conferred in 1521 on Henry VIII. by Leo X. in a bull entreating him not to be too much elated by it, and to show his posterity "the way in which, if they also should wish to be invested with such a title, they might study to follow his illustrious steps." The King had sent a presentation copy of his book against Luther to Leo, writing therein with as lofty a disregard of prosody as the Emperor Sigismund is said to have had for grammar—

> Henricus Rex Octavus, Leo decime, mittit
> Hoc opus, et fidei signum et amicitiæ.

And the book with these lines in it, writes Father Bridgett, may be seen in the Vatican Library to this day. Not many years afterwards Henry was with his own hand strengthening the phraseology of the Act of Appeals (as may be seen by reference to the Cottonian manuscripts in the British Museum), and Paul III. issued, and after three years' delay published, the

Bulla citatoria regis Angliæ, in which, as it is put in the *Brutum Fulmen*, published by a Bishop of Lincoln (Barlow) in 1681, his Holiness "excommunicated, cursed, deposed, and damned" Henry VIII. of England, and absolved his subjects from all oaths of allegiance, declaring "with a strange impiety and impudence," comments the Bishop, "King Henry and his descendants to be infamous," and pronouncing that "in any cause of debt or any other cause none should be bound to answer them, and yet they bound to answer everybody." But though Paul's bull recites the conferring of the title of Defender of the Faith upon Henry by Leo as a historical fact, it nowhere withdraws that title—perhaps relying on the rule of construction that *omne majus continct in se minus*.

The remaining Acts requiring notice will now be dealt with under alphabetical titles.

Army.—The Army (Annual) Act (No. 2, B.E.) after the preamble (taken from the annual Mutiny Acts superseded in 1881 by the Army Act) to the effect that "the raising of a standing army within the United Kingdom in time of peace, unless it be with the consent of Parliament, is against law," and also that a body of forces ought to be continued, consisting of 450,000 men, exclusive of those serving in India, continued the Army Act for one year more. The important amendment is inserted that the rules as to the procedure of Courts of enquiry, which may be made from time to time by his Majesty the King, may provide for evidence being taken on oath and empower Courts of enquiry to administer oaths for that purpose generally, as already could be done specially in enquiries as to absence without leave under the s. 72 of the Army Act and the 125th of the Rules of Procedure, 1899,—thus forming an exception to the 124th Rule, which lays down that "a Court of enquiry has no judicial power, and is in strictness not a Court at all." It is also provided that throughout the Army Act references to her Majesty the Queen shall be construed as references to his Majesty the King, and that the necessary words shall be substituted accordingly. The first part of this provision is technically surplusage, looking to the general enactment of s. 30 of the Interpretation Act, 1889, that in every Act of Parliament references to the Sovereign reigning at the time of the passing of the Act shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being; the second is a direction to the King's printers, who appear by virtue of s. 8 of the Army (Annual) Act, 1885, to be bound to keep the Army Act always printed up to date.

Colonies.—The Colonial Acts Confirmation Act (No. 29) merely confirms two New South Wales Acts, a Queensland Act, and two Western Australia Acts, all passed in 1900 and all connected with the Commonwealth of Australia Constitution Act of that year, on the ground that their validity is open to doubt by reason of their not having been reserved for the signification of her late Majesty's pleasure.

Criminal Law.—The Larceny Act (No. 1, E.I.), which came into operation on January 1st, 1902, greatly amends the law of misappropriation, enacting, in substitution for the ss. 75 and 76 of the Larceny Act, 1861, which it repeals, that—

> Whosoever (1) being entrusted, either solely or jointly with any other person, with any property, in order that he may retain in safe custody, or apply, pay, or deliver, for any purpose or to any person, the property or any part thereof, or any proceeds thereof; or (2) having, either solely or jointly with any other person, received any property for or on account of any other person, fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property, or any part thereof or any proceeds thereof, shall be guilty of a misdemeanour, and be liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment, with or without hard labour, for a term not exceeding two years.
>
> Nothing in this section shall apply to or affect any trustee on any express trust created by a deed or will, or any mortgagee of any property, real or personal, in respect of any act done by the trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage.

The saving for trustees and mortgagees is taken from the repealed s. 75 of the Act of 1861, which section, however, exempted trustees under any instrument whatever, whereas the new section exempts trustees only under deed or will.

The two main amendments effected are that there is no longer (1) any special mention of particular agents as possible offenders, and (2) any necessity for a direction in writing by the principal to have been given for the offence of misappropriation to be committed; but the whole phraseology is much changed, and there is perhaps an addition in point of substance.

It is undoubted law that, at whatever distance of time a crime may have been committed, the criminal, till he has suffered just punishment, remains amenable to the law for the whole of his life. No statute of limitation, with rare exceptions, applies to an indictable offence. But it is equally undoubted that no criminal statute is retrospective so as to apply to an offence committed before its date. This rule, however, does not apply to matters of procedure. The new Act does not so much create a new offence as allow it to be proved by different evidence—*i.e.*, without written evidence; and questions whether and how far the new Act is retrospective may possibly be raised. The new enactment being expressly "substituted" for ss. 75 and 76 of the Act of 1861 will be subject to s. 85 of that Act, which directs (1) that nothing in its "last ten preceding sections" shall entitle any person to refuse to make full discovery in equity or to answer any question or interrogatory in any civil proceeding in any Court or in bankruptcy proceedings; and (2) that no person shall be convicted in respect of any act disclosed by him "in consequence of any compulsory process." The exclusion of trusts from the new Act must be viewed in the light of s. 80 of the Act of

1861, by which a trustee fraudulently disposing of trust property is guilty of a misdemeanour, for the prosecution of which, however, the sanction of the Attorney-General is required, or, in case an action be pending against the alleged offender, of the judge in whose Court the action shall have been brought or is pending.

The Youthful Offenders Act (No. 20, U.K.) carries one step further the treatment of juvenile offenders which began in 1855, and was materially advanced in 1866 by Industrial and Reformatory School Acts, in 1879 and 1899 by Summary Jurisdiction Acts, and in 1887 by the Probation of First Offenders Act, and introduces the new element of fixing a parent with liability for the misdeeds of his child. "Children" or "young persons" (a "child" is below twelve and a "young person" below sixteen), if convicted of felony and discharged by reason of the triviality of the offence, or of youth, or only sentenced to be whipped, are not to be sent to industrial schools. If they are charged with any offence for which a fine, damages, or costs may be imposed by justices of the peace, and there is reason to believe that their parents or guardians have conduced, by wilful default or habitual neglect, to the commission of the alleged offence, the parents or guardians may be summoned and tried with them, and may be ordered to pay the fine, damages, and costs, or "to give security for the good behaviour of the child or young person." There is to be an appeal from the order to quarter sessions, and the same young offender can only be once answered for by the parent or guardian. It is further provided that on remand or commitment of any youthful offender, the Court may, instead of committing to prison, remand or commit him "into the custody of any fit person willing to receive him (due regard being had where practicable to the religious persuasion of the child), to be detained in that custody for the period for which he has been remanded, or until he is thence delivered by due course of law." The words "any fit person" are wide and vague, but it may be observed that by virtue of s. 19 of the Interpretation Act, 1889, the word "person" includes a corporation. Courts of assize and quarter sessions, which hitherto could send juvenile offenders to a reformatory only, are newly clothed with the power to send them to an industrial school, and elaborate provisions are made as to the maintenance of the young offenders. Scotland and Ireland are brought within the purview of the Act by very numerous substitutions for its enactments where necessary of Scots and Irish enactments.

Education.—The Education Act (No. 11, E.) enacted that—

> Where a School Board has at any time during the twelve months immediately preceding the 31st day of July, 1901, maintained out of the school fund any school or class to the maintenance of which the school fund is not lawfully applicable, the council of the county or county borough within which the school or class is held . . . may empower the School Board to carry on for the period of one year from that day the work of the school or class to such extent and on such terms

as may be agreed on between such council . . . and the School Board, and to apply to the maintenance of the school or class such sum out of the school fund as the council . . . may sanction.

Similar power, but subject to the sanction of the Board of Education, was conferred on any other local authority under the Technical Instruction Acts, and it was added that the legality of any expenses incurred before July 31st, 1901, and sanctioned by the Local Government Board was not to be questioned in any Court. This purely temporary Act, which it is to be observed omitted the well-known adjective "elementary" before its short title, was occasioned by the judgment of the Court of Appeal in *Rex.* v. *Cockerton* ([1901], 1 K.B. 726), affirming that of Mr. Justice Wills and Mr. Justice Kennedy, that it is not within the power of a School Board to expend money raised by local rate upon any education other than elementary. The question arose out of certain disallowances and surcharges by an auditor of payments, on account of an educational system which, in the opinion of the Court, "no effort of imagination could describe as elementary education." The Act of 1870 nowhere defines the term, though its interpretation clause defines "elementary school" as "a school at which elementary education is the principal part of the education there given," and the Whitehall authorities have long seen their way to including algebra and many other advanced subjects (but not law) in their statutory codes, so as, in the words of the Court (which was not asked to say whether the code embraces more than elementary education), "to embrace elementary education up to its high-water mark." A minute of the Board of Education, dated July 3rd, had previously been made with the view to prevent overlapping between the evening schools administered by the Board of Education and those administered by the Science and Art Department, and for the promulgation of one new set of regulations recognising the distinction between those schools which are public elementary and those schools which are not.

The Education (Scotland) (No. 9, S.) Act of Mr. Pirie (backed also by Mr. Asquith, Mr. Baird, Mr. Dillon, Sir W. Houldsworth, Sir L. M'Iver, Sir R. Reid, Mr. Robson, Captain Sinclair, Mr. P. Smith, and Mr. Tennant) opens by the enactment, very similar to s. 4 of the English Act of 1876, that "it shall be the duty of every parent to provide efficient elementary instruction in reading, writing, and arithmetic for his children who are between five and fourteen years of age," the previous Scots law, as settled by Acts of 1872 and 1883, imposing similar duty in respect of children between those ages who had not obtained certificates of ability to read and write, and of a knowledge of elementary arithmetic up to certain standards prescribed by the Scots Education Department for the time being. The Act also prohibits the employment of any child under twelve, or who, being over twelve, has not obtained exemption from the obligation to attend school from the School Board of the district, which may grant such

exemption "to individual children" in any case "where, after due enquiry in such case, the circumstances seem to justify" it "for such time and upon such conditions, if any, as to the amount and manner of further attendance at school until the age of fourteen, as the School Board shall think fit." A register of exemptions and the reasons for them is to be kept, and the Scots Education Department is empowered to call upon any School Board to recall any particular exemption upon pain of having its Parliamentary grant withheld or reduced.

Factories and Workshops.—The Factory and Workshop Act (No. 22, U.K.) is an Act of 10 parts, 163 sections, and 7 schedules, consolidating with amendments the Factory and Workshop Act of 1878, and its amending Acts of 1883, 1889, 1891, and 1897, and dealing slightly with the Railway Employment (Prevention of Accidents) Act, 1900. The Act of 1878 had itself consolidated sixteen statutes, beginning with the Peel Act of the father of the great Sir Robert, which was passed in 1802, to preserve the health and morals of apprentices and others employed in "cotton and other mills and factories," by which it was enacted that the rooms were to be washed with quicklime and water twice a year, the hours of work were limited to twelve, night work was prohibited, the apprentices were instructed in reading, writing, and arithmetic every working day for the first four years, and in the principles of the Christian religion on Sundays, and the factories and mills were visited by a justice of the peace and a clergyman. In 1833 were commenced the reforms so much and so justly associated with the name of Lord Ashley, that, when years afterwards he joined, as Lord Shaftesbury, in promoting its extension, some ignorant opponents asked indignantly why he had not helped Lord Ashley years before. Lord Ashley's Act limited the working hours of children under thirteen to eight hours a day, and of boys and girls under eighteen to twelve hours a day. In 1844 the employment of children under eight was prohibited, and that of women restricted, and Lord Ashley's Print-works Act followed in 1845. The "Ten Hours Bill" restricting the working time for women and young persons to ten hours a day, and the working day to the period between 5.30 a.m. and 8 p.m., was passed in 1847, and an Act of 1853 limited the time for children to the period between 6 a.m. and 6 p.m. In 1864 earthenware and other manufactories, in 1867 (when factories and workshops were first dealt with separately) paper mills, glass works, and printing offices, in 1870 bleaching and dye works were brought within factory law, and in 1878 was passed the first consolidating Act (after an exhaustive enquiry by a Royal Commission), which was followed by the amending Acts of 1883 (dealing mainly with white-lead factories and bakehouses); of 1889 (applying solely to cotton cloth and like factories); of 1891 (authorising special rules for dangerous trades, forbidding the employment of children under eleven, enjoining notice of accidents, and otherwise very miscellaneously amending the law); of 1895

(bringing laundries and docks within the law, and further miscellaneously amending it); and of 1897 (applying solely and shortly to cotton cloth and like factories).

The bill which has become the present Act was (in point of form at any rate) happily piloted through the House of Commons by a new procedure. Two quite separate bills—an amending bill of fifty-three clauses and a consolidating bill—were simultaneously introduced by Mr. Ritchie as Home Secretary in March, and, after a discussion in June, on the amending bill, were simultaneously referred to the Standing Committee on Trade, which fused them into one.

The bill, however, did not reach the House of Lords till August 14th, just before the prorogation. Lord Windsor, Lord Spencer, and the Duke of Northumberland strongly protested against this very late appearance, and Lord Belper on the part of the Government had only just time to re-insert the laundries clause which had been struck out of the bill in the House of Commons, where even the "Talbot amendment" for modified inspection of conventual laundries had failed to pass. The practical result of these puzzling legislative movements is that s. 22 of the Act of 1895 (which Act was the first to apply to laundries) has substantially reappeared as s. 104 of the new Act, with a substantial reproduction of one of its sub-sections as follows:—

> Nothing in this section shall apply to any laundry in which the only persons employed are inmates of any prison, reformatory, or industrial school, or other institution for the time being subject to inspection under any Act other than this Act; or inmates of an institution conducted in good faith for religious or charitable purposes or members of the same family dwelling there; or in which not more than two persons dwelling elsewhere are employed.

S. 104 of the Act applies, amongst others, its provisions as to "powers of inspectors," to laundries "carried on by way of trade, or for purposes of gain," and these provisions were objected to in respect of conventual laundries in Ireland, though the Act makes no express mention either of convents or of the sister country in connection with charitable institutions. It may, perhaps, be not out of place to state here that nuns are expressly exempted from the still unrepealed sections (so recently proved abortive in *R.* v. *Kennedy*, 86 L.T. Rep. 753) of the Roman Catholic Relief Act of 1829, which punish Jesuits and "members of other religious orders, communities, or societies of the Church of Rome bound by monastic or religious vows," with banishment for life from the United Kingdom; and, also, that by an enactment of 1285 still unrepealed "he that carrieth away a nun from her house, although she consent," must be sentenced (1) to three years' imprisonment, (2) to make reasonable satisfaction to the house from whence she was taken, and (3) "nevertheless to a fine at the King's will." "Qui monialem a domo suâ abducat, licet monialis consenciat

puniatur per prisonam trium annorum et satisfaciat domui a qua abducta fuerit competenter, et nihilominus redimatur ad voluntatem Regis." Such are the words of the "Statute of Westminster the Second."

The most important novelties in the new Act are these:—Steam boilers must be examined and reported on at least once in every 14 months (s. 11); district councils may make by-laws for providing escape from fire (s. 15); if work for women and young persons in a textile factory begins on Saturdays at 6 a.m., it must end an hour sooner than under the old law—*e.g.*, "if not less than one hour is allowed for meals, it must end at noon (instead of at 1 p.m.) in any manufacturing process, and at 12.30 (instead of 1.30) as regards employment for any purpose whatever" (s. 24); no child under twelve (substituted for eleven) may be employed, either in factory or workshop, unless lawfully employed before the Act (s. 62); the powers of making Home Office regulations for dangerous trades are very greatly increased (ss. 79-86); and county borough councils obtain many of the powers which district councils have (s. 154).

It is now proposed to present a short abstract of the principal enactments of the Act.

I.—Health and Safety.—A factory must be kept clean, free from effluvia from any drain or nuisance, not overcrowded, and ventilated against harm from factory impurities. The inside walls, if not painted once in seven years, must be limewashed once in every fourteen months, and, if so painted, must be "washed with hot water and soap once at least within every fourteen months, to date from the time when they were last washed."

A workshop must similarly be kept clean, etc., but the specific directions as to limewashing do not apply to it.

The Home Office may authorise an inspector to enforce these and other provisions in default of their enforcement by district councils.

Machinery in a factory must be fenced, and steam boilers, both in factories and in workshops, must have proper safety valves and steam gauges, and be examined and reported on once in every fourteen months. A child must not be employed to clean any part of factory machinery in motion: nor a young person to clean any dangerous part or mill-gearing; nor a woman to clean mill-gearing while the machinery is in motion for the purpose of propelling any part of the manufacturing machinery. Post-1891 factories and post-1895 workshops in which more than forty persons are employed, must be furnished with district council certificates that they are provided with such means of escape from fire as can be reasonably required. In the case of pre-1892 factories and pre-1896 workshops in which more than forty persons are employed, district councils are bound to ascertain their condition, and, if they are not sufficiently provided with means of escape from fire, to serve notices on the owners specifying the necessary measures, and requiring them to be carried out before a specified date. Disputes between the owners and the councils as to what is necessary are to be settled by arbitration on

application by either party. The doors of a factory or workshop are to open from inside, and in the case of post-1896 buildings, the doors of each room in which more than ten persons are employed must, unless they be sliding doors, open outwards.

Justices of the peace may on complaint of an inspector order dangerous machines to be made safe, and unhealthy factories or workshops to be made healthy.

Notices of accidents causing death or bodily injury are to be given to the district inspectors, and accidents are to be investigated by certifying surgeons, or, if the Home Office deem it expedient, by a competent person in open Court, not only with all the powers of a Court of summary jurisdiction, but with full powers of entering and inspecting buildings.

II.—Employment.—The provisions as to employment apply only to women, young persons, and children. Both in factories and in workshops Sunday employment is forbidden. No child under twelve may be employed either in a factory or workshop unless lawfully so employed at the commencement of the Act, before which under eleven was the protected age, the "eleven" having been raised in 1891 from the "ten" of 1878. Christmas Day, Good Friday, and every Bank Holiday are whole holidays in England "unless in lieu of any of those days another whole holiday, or two half-holidays, fixed by the occupier, be allowed." Scotland and Ireland have each somewhat different days. Meals are to be simultaneous.

III.—Education.—The parent of any child employed in either factory or workshop must cause the child to attend some recognised efficient school which the parent may select on each work day for at least one attendance, or, if the employment be on the alternate-day system, on each work day preceding each day of employment for at least two attendances, with savings, however, for Saturdays, for sickness or like cause of absence, and for too great distance of some recognised efficient school. Certificates of attendance must be procured weekly from teachers by occupiers, and to employ an uncertificated child is illegal. When a child of thirteen has obtained a certificate of having attained such standard either (1) of proficiency in reading, writing, and arithmetic, or (2) of previous due attendance at a certified efficient school as may be jointly fixed by the Home Office and the Board of Education, that child becomes a "young person."

IV.—Dangerous and Unhealthy Industries.—Notice of lead, phosphorus, arsenical or mercurial poisoning, or anthrax, if believed to be contracted in a factory or workshop, is to be sent by the medical attendant to the Chief Inspector of Factories. Special ventilation by fan or otherwise may be directed by an inspector where grinding, glazing, polishing by wheel or other process generating impurity is carried on, and women, young persons, or children must be sufficiently protected from wet or steam where wet spinning is carried on. Other particular businesses are particularly dealt with, and the general sweeping and much-extended enactment follows that Home

Office regulations may be made to meet the necessity of any case in which that Office certifies that any manufacture, etc., is dangerous or injurious to health, or dangerous to life or limb, either generally or in the case of women, children, or any other class of persons. There is an elaborate procedure for allowing all persons affected by the regulations to object to them before they are made.

V.—Home Work.—Lists of outworkers in such classes of work as may from time to time be prescribed by the Home Office must be kept by the occupiers of factories and workshops, and copies of them sent each February and August to the district councils, who are to have them examined, the lists themselves being open to inspection by inspectors and district council officers. Occupiers of factories or workshops are not to allow clothes to be made or cleaned in any dwelling-house where there is scarlet fever or smallpox, and district councils may prohibit home work in any house where there is an infectious disease—"*i.e.*, smallpox, cholera, diphtheria, membranous croup, erysipelas croup, scarlatina, scarlet, typhus, typhoid, enteric, relapsing, continued, or puerperal," or any other determined by the local authority to be infectious for the purpose of notification.

In "domestic" factories and workshops there are special hours of employment for women, young persons, and children, and the provisions of the Act as to prohibition of employment in meal times, affixing notices, holidays, notices of accidents, ventilation, and other matters do not apply, unless the manufacture carried on herein is officially certified to be dangerous.

VI.—Particulars of Work and Wages.—Particulars of work and wages are to be given to piece workers in textile factories when the work is given out to them. These are to be particulars of the rate of wages applicable to the work to be done, and also particulars of the work to which that rate is to be applied. Trade secrets must not be divulged by the workers under pain of a £10 fine. These provisions may be extended by the Home Office order to non-textile factories and workshops.

VII.—Administration.—Inspectors are appointed by the Home Office, with the approval of the Treasury as to number and salaries. In Wales and Monmouthshire Welsh speakers are, *cæteris paribus*, to be preferred. The inspectors have full powers of entry and examination of buildings at all reasonable times by day and night, and to question, either alone or in the presence of any other person, any person found therein. Occupiers are bound to assist, and wilful non-assistance amounts to penal obstruction. Inspectors may conduct proceedings before magistrates. Certifying surgeons, with fees regulated by the statute, if not agreed upon with occupiers, are also appointed by the Home Office. As to workshops, district councils have all the powers which inspectors have. Notice of occupation of any factory or workshop is to be given to the district inspector by the occupier within a month after occupation commenced, and the inspector is to forward such notice forthwith to the district council. An abstract of the Act, a notice

of the inspector's name and address, and of the clock (if any) by which the hours of employment are regulated must be put up in every factory and workshop, and occupiers must keep general registers of particulars of children and young persons employed, of limewashing, accidents, and other matters as prescribed by the Home Office, and there must be sent to the chief inspector of factories, at intervals of not less than one nor more than three years, a "correct return," specifying the number of persons employed, with such particulars as to age, sex, and occupation as the Secretary of State may direct.

VIII.—Legal Proceedings.—If a factory or workshop is not kept in conformity with the Act, the occupier may be fined £10 or less by a Court of summary jurisdiction. A fine up to £100 may be inflicted if death or injury results from non-observance, and applied for the benefit of the injured worker or his family. Where a young person or child is employed contrary to the Act, the parent may be fined up to twenty shillings for each offence, unless it appears to the Court that it was committed without his consent.

Intoxicating Liquors.—The Intoxicating Liquors (Sale to Children) Act (No. 27, U.K.) of Mr. Crombie (backed also by Sir W. Houldsworth, Mr. Tritton, Sir J. Leese, Mr. Asquith, Sir H. Fowler, Sir E. Grey, Mr. T. M. Healy, Mr. A. Thomas, Mr. W. Johnston, Mr. Peel, and Mr. C. Douglas—twelve members in all) penalises the sale of any description of intoxicating liquor by a licensed person to a child under fourteen (altered from the sixteen of the bill), with savings for (1) sale in a closed vessel for consumption off the premises, (2) for sale at the residence of the buyer, and (3) for the employment by the seller of one of his family or servants as a delivering messenger. The second section enacts that—

> Every holder of a licence who knowingly sells or delivers, or allows any person to sell or deliver, save at the residence or working place of the purchaser, any description of intoxicating liquor to any person under the age of fourteen years for consumption by any person on or off the premises, excepting such intoxicating liquors as are sold or delivered in corked and sealed vessels (*i.e.*, closed with a stopper of any material and secured with any substance without the destruction of which the stopper cannot be withdrawn) in quantities not less than one reputed pint for consumption off the premises only, shall be liable to a penalty not exceeding forty shillings for the first offence and not exceeding five pounds for any subsequent offence; and every person who knowingly sends any person under the age of fourteen years to any place where intoxicating liquors are sold, or delivered, or distributed, for the purpose of obtaining any description of intoxicating liquor, excepting as aforesaid, for consumption by any person on or off the premises, shall be liable to like penalties.

The House of Commons passed the second reading of the bill which became this Act, after considerable alteration in Committee, by a majority of 372 to 54; the House of Lords had barely time to

pass it at all, much less to alter it. The sale by a licensed person of spirits to be consumed on the premises to any person "apparently" under sixteen was made penal more than sixty years ago in the Metropolitan Police district, by an enactment repealed and made general by s. 7 of the Licensing Act, 1872, which, however, has left in force a similar enactment applying to the City only. The Intoxicating Liquors (Sale to Children) Act, 1886, which made it penal knowingly to sell any description of intoxicating liquor to a child under thirteen for consumption by that child, or any other child under the same age, is repealed by the new Act; but s. 7 of the Act of 1872 is not, and can, it is conceived, be read with the new Act; so that there will be one law against the sale of spirits to children, and another (as indeed there has been since 1886) against the sale to them of intoxicating liquors generally. In the measure as originally laid before Parliament, it was proposed to repeal s. 7 of the Act of 1872. There is no reason why the insertion of the word "knowingly" in the new Act should cause any more difficulty than was the case with the Act of 1886, from which it has been deliberately taken, except that public attention has been recently much more directed to the subject than hitherto. There does not appear to be any judicial decision on the meaning of "knowingly" in the Act of 1886; but it is a rule of law that a guilty mind is essential to a criminal offence. In the case of very young children the maxim *res ipsa loquitur* would apply; but in all cases the question of knowledge will be one of fact, difficult to prove, but equally difficult to disprove. In the case of a person informed against for "knowingly" sending a child for liquor there would, it is conceived, be a *prima facie* presumption of knowledge (especially in the case of a parent) which would seldom, if ever, arise in the case of a licensed person selling. The servant's knowledge of the age appears to be no element of the offence on the part of his master, inasmuch as "knowingly" only relates to the mind of the licensed person. The Act is directed to be read as one with the Licensing Acts, 1872 to 1874, and also with various Scots and Irish Licensing Acts. The three countries have always been dealt with separately in the matter of sale by retail of intoxicating liquors, with the peculiar exception that the Act of 1872 applies to Ireland as well as England, though the Act of 1874 does not.

Libraries.—Lord Windsor's Public Libraries Act (No. 319, E.I.) "to amend the Acts relating to Public Libraries, Museums, and Gymnasiums, and to regulate the liability of managers of libraries to proceedings for libel," has a title curiously promising a little more than it performs. On looking through the Act it is impossible to find any such regulation of liability. The fact is that the bill as it left the House of Lords had contained two clauses to the following effect:—

A person shall not be entitled to institute any legal proceedings against a library authority or any member, officer, or servant, thereof, or against the managers of

any library established otherwise than under the principal Act, in respect of libellous matter in any book kept for use in or circulation from their library, unless he has first instituted legal proceedings against the author, publisher, or printer, and that (*sic*) one of such persons has been convicted or adjudged to pay damages on account of libellous matter contained in the said book.

Nothing in this Act shall affect the Trustees of the British Museum so as to make them liable to any legal proceedings in respect of books in their custody pursuant to statute.

These clauses were suggested by a curious action against the British Museum Trustees, and the principal librarian (see *Times* Law Reports, vol. x., pp. 215, 338) seven years ago, for an alleged libel by placing a clearly libellous publication in the Museum library. The qualifications of library authorities are extended, and disqualifications by infancy, bankruptcy, interest, etc., under the Local Government Act, 1894, are applied to them. There is nothing said about women, but it is conceived that they have always been eligible; and it may be mentioned that the London Government Act of 1899, though it excludes women from the London borough councils, enacts by s. 8 that any London borough library committee may consist partly of "persons not members of the council," thus grammatically, at any rate, including women. Extensive powers of making by-laws are also given. The Act of 1898 (also the work of Lord Windsor) had made disorderly behaviour, gambling, or obstinate remaining in a library after closing hours punishable by a small fine, but the new Act goes wisely further, and enables by-laws to be made, authorising the officers of the library to exclude or remove persons committing any offence either against the Act of 1898 or against the by-laws. The hospitality of public libraries is very liberally exercised as a rule, perfect strangers to the library district being usually admitted, though it is believed that only residents are ordinarily allowed to borrow books. Greater protection from abuse of this hospitality and even from abuse of a library by ratepayers themselves was clearly necessary, and Mr. Fortescue's eloquent address at the Plymouth meeting of the Library Association tells only too plainly of the annoyances which librarians may often have to suffer. The by-laws can only be made in accordance with a set of provisions incorporated by reference (as in the Factory Act in respect of by-laws by a district council for providing means of escape from a burning factory) from the Public Health Act, 1875, by the effect of which by-laws repugnant to the laws of England are void, penalties exceeding £5 may not be imposed, confirmation by the Local Government Board is required, but not allowed unless full notice has been given to apply for it, and a copy of all by-laws in force must be hung up in the library and given to any ratepayer on application. Library authorities gain the power of agreeing to share the cost of maintenance of each other's libraries, "and as to the interchange, hire and use of books and newspapers belonging to such authorities respectively."

A clause inserted by Lord Newton, who stated that in many parts of the country, especially in Lancashire, libraries are apt to be seriously damaged by subsidence, provides that the expenses of repairing any damage to a library building through the subsidence of the ground are not to be reckoned for the purpose of any limitation of the rate under s. 2 of the Act of 1892. That enactment, it will be remembered, limits the rate to a penny in the pound, adding, moreover, that the Act may be adopted subject to a condition that the rate may not exceed one half-penny or three farthings, but that "such limitation, if fixed at one half-penny, may be subsequently raised to three farthings, or altogether removed, or where it is for the time being fixed at three farthings may be removed."

The number of these free public ψυχῆς ἰατρεῖα in England was 209 ten years ago, and is believed to be increasing. For the purposes of accurate calculation of the number up to date, the Act provides that notice of every future adoption of the Act of 1892 is forthwith to be given to the Local Government Board by the library authority, and, further, that "the library authority of every district in which the Act has already been adopted shall give the like notice within three months after the passing of this Act," which received the Royal assent on August 17th last.

Ireland is included as to the authority to make by-laws, but Scotland wholly excluded, as having had the required authority by an Act of her own for many years. There are many cases in which the countries of the United Kingdom may still profit by adopting each other's legislation. The Scots law of distribution, by which, as in our own long disregarded Magna Charta, the testamentary power may not be exercised so as to leave a widow and children penniless, might well be adopted in England and Ireland, and so perhaps might the Scots law of legitimating children born before the marriage of their parents, so emphatically advocated by the bishops but repudiated by the barons in the *nolunt leges Angliæ mutare* of the Parliament held at Merton; England and Scotland might well adopt the Irish law of obliging masters to give characters to servants on quitting; and Ireland might do well to adopt the law of England and Scotland by which accused persons were enabled in 1898 to give evidence in their own defence.

Militia and Yeomanry.—The Militia and Yeomanry Act (No. 14, U.K.) applies to all Yeomen commissioned or enlisted after the passing of the Act on August 17th, 1901, "the enactments relating to the general Militia" with the exception of the provisions as to preliminary training and the substitution of a period of annual training for not less than fourteen and not more than eighteen days for the period of not less than twenty-one nor more than twenty-eight days required for the Militia by the Militia Act of 1882, and of ten days for the period of further service required by that Act in the case of illegal absence. It is also provided that the period for Militiamen enlisted in the "mobile Militia Artillery" after the passing of the Act may be

such period not exceeding eighty-four days as may be prescribed under the Act of 1882. From the context, "the enactments relating to the general Militia," so comprehensively applied to the Yeomanry by the Act, cannot include the temporary Militia Ballot Suspension Act, 1865, just continued for nearly the fortieth time, the short effect of which is that the very numerous Acts for raising the Militia, now and for very many years raised by voluntary enlistment, by compulsory ballot to fill vacancies—by conscription, in short—though at present suspended, may at any time be revived by order of his Majesty the King in Council. One of the provisions of these sleeping statutes is that all men between the ages of eighteen and thirty (except peers, clergymen, articled clerks, and others) are to be placed on the lists for ballot, and another that any balloted man may have his place taken by a fit substitute. The Militia (to a number not exceeding 182,879, including 50,000 Militia Reserve) had £2,662,000 appropriated to it for the financial year ending in March, 1902, the Yeomanry having £375,000, and the Volunteers £1,230,000 for the same period.

National Gallery.—The National Gallery Act (No. 16, E.) for the purpose of preserving our priceless national collection of pictures from all risk of fire, authorises the purchase of additional adjoining land. As first introduced, the measure provided for compulsory purchase; but by an amendment of Lord Morley's purchase by agreement only is sanctioned.

Public Health.—The Isolation Hospitals Act (No. 8, E.) allows local authorities to transfer any hospitals provided by them to the county council of the district for use as an "isolation hospital" within the meaning of the Isolation Hospitals Act, 1893, which defines the term as "a hospital for the reception of patients suffering from infectious diseases," and gives to the expression "infectious diseases" the same meaning as in the Infectious Diseases Act, 1889. The Act of 1889 thus incorporated enumerates as "infectious diseases," "small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing continued, or puerperal," and, in addition to these, "as respects any particular district any infectious disease to which this Act has been applied by the local authority in manner provided by this Act."

Naval Works.—The Naval Works Act (No. 39, B.E.) authorises the Treasury to issue such sums not exceeding in the whole £6,157,000 as may be required by the Admiralty for defraying the cost of certain naval works. The details are very precisely set out under thirty separate heads, relating to Gibraltar, Portland, Hong-kong, Portsmouth, "Haulbowline Zymotic Hospital," and other sources of expenditure. Of the £669,000 authorised for the commercial mole at Gibraltar "four-sevenths is to be repaid by the colony of Gibraltar in the form of an annuity of £14,000 per annum for fifty-seven years from the opening of the mole," and information of similar minuteness is given in respect of other items.

Revenue.—The Finance Act (No. 7, U.K.) did not receive the Royal assent till July 26th, the Act of 1900 having passed on April 9th, that of 1899 on June 20th, that of 1898 on July 1st, that of 1897 on July 15th, that of 1896 not till August 7th, and that of 1895 on May 30th, so that the Act of 1901 was the latest but one in seven years. Like all Finance Acts, however, it operated retrospectively to the date of the Budget resolutions of the House of Commons which it carried into effect—*i.e.*, to April. The Customs duty on tea, as increased from fourpence to sixpence per lb. in 1900, was continued, and so were the additional Customs duties imposed on tobacco, beer, and spirits, and the additional Excise duties on beer and spirits, the continuations being in each of the three cases until August 1st, 1902. Income-tax was imposed from April 6th at an increase of twopence on the shilling rate to which it was raised from eightpence in 1899, the new rate being only twopence less than that arising from the addition of the "war ninepence" to the normal sevenpence for the purposes of the Crimean War in 1855. There was also an entirely new set of duties on sugar, which had been previously untaxed since 1874, a duty on exported coal, and an alteration of the stamp duty on policies of sea insurance. The Stamp Act of 1891 provides that "no policy of sea insurance made for time" may be made for more than twelve months. To escape the strictness of this enactment, certain "continuation clauses" had become common in these policies. In an insurance action, which came before him (between the date of the introduction of the Bill and that of the passing of the Act), Mr. Justice Bigham, in accordance with the direction of s. 14 of the Act of 1891, "took notice" of the invalidation of the policy by one of these continuation clauses, and ruled that the policy could not be sued upon. S. 11 of the new Act now validates a particular form of continuation clause, charges an additional sixpence on a policy containing such a clause, and enacts that if the risk covered by the continuation clause attaches, and a new policy is not issued covering the risk, the continuation clause shall be deemed to be a new and separate contract of insurance not covered by the stamp "and the policy shall be stamped in respect of that contract accordingly, but may be so stamped without penalty at any time not exceeding thirty days after the risk has so attached." The statutory "continuation clause" thus validated

means an agreement to the following or the like effect (words rather vague and unsatisfactory)—namely, that in event of the ship being at sea or the voyage otherwise not completed on the expiration of the policy, the subject-matter of the insurance shall be held covered until the arrival of the ship, or for a reasonable time thereafter not exceeding thirty days.

The new duty on exported coal, which forms so leading a feature of the Act, is charged at the rate of a shilling a ton, a rebate being allowed "on any coal the value of which free on board is proved to the satisfaction of

the Commissioners of Customs not to exceed six shillings per ton," and the Treasury having a purely discretionary power to remit the duty on any coal exported before January 1st, 1902, in pursuance of a contract made before April 19th, 1901—the day after the Budget resolution imposing the duty. The present case of payment of duty by a colliery tenant at a royalty is thus provided for—

> In any case where the person paying the duty shall be the tenant of the mines from which the coal shall have been produced, subject to the payment of a rent or royalty, varying with the selling price of such coal, and the coal shall have been sold at a price inclusive of the duty, then the amount of such duty so paid shall in the absence of any agreement to the contrary be deducted in ascertaining the amount of such selling price for the purpose of determining the amount of the said rent or royalty.

A schedule of six detailed provisions and of four modifications of the Customs Acts as to exportations of coal is added to the Act, and amongst the former is the important provision that, in event of the duty being paid by a colliery proprietor upon coal sold by him free on board in pursuance of a contract made before April 19th last, the seller may, in the absence of agreement to the contrary, recover the duties so paid as an addition to the contract price, unless the purchaser shows that the coal has been applied for the purpose of fulfilling a contract made by him before April 19th last, for the sale of the coal at a specified price.

The Loan Act (No. 12, U.K.) provided that any money required for the service of the year ending on March 31st, 1902, might be raised up to sixty millions by a further issue of Two-and-Three-Quarters per Cent. Consols, to be consolidated with the existing Consols, and issued at such times, in such amounts, and subject to such conditions as the Treasury may direct.

The Appropriation Act (No. 21, U.K.) appropriates to various kinds of expenditure for the service of the same financial year as above, sums amounting in the aggregate to £172,150,373 2*s*.

Telegraphs.—The Pacific Cable Act (No. 31, B.E.) provides for the construction of a submarine cable from the Island of Vancouver, on the West Coast of the Dominion of Canada, to Norfolk Island, in the Pacific Ocean, and thence by means of two cables to New Zealand and Queensland respectively, at an estimated cost of £2,000,000; and the Treasury is authorised to raise the amount by loan at 3 per cent. per annum interest. The cost is to be ultimately provided as to 5-18ths by his Majesty's Government, and as to 13-18ths by the Governments of Canada, the States of New South Wales, Queensland, and Victoria, and of New Zealand, any profits being divisible between his Majesty's Government and these Colonial Governments in the same proportion. The annual expenses are to be paid

out of the receipts, and, so far as these are not sufficient, "out of moneys provided by Parliament." Of the surplus profits 13-18ths are to be paid to the Colonial Governments and the remainder as the Treasury direct. The construction and working of the cable are to be managed by a board, three members representing the mother country, the first members being Sir Spencer Walpole, Mr. E. Y. Gleadowe, C.B., and Mr. W. H. Mercer; two representing Canada, the first members being Lord Strathcona and Mount Royal, and Mr. Alexander Lang; two representing New South Wales, Victoria, and Queensland, the first members being the Hon. Henry Copeland and the Hon. Sir Andrew Clark; and one representing New Zealand, the first member being the Hon. W. P. Reeves. This board is to be a body corporate, vacancies being filled by the Treasury, and three members forming a quorum. Thus was it proposed to put a girdle of communication round about the British Empire in even less than thirty minutes.

1. ISLE OF MAN.

[*Contributed by* His Honour S Stevenson Moore, *Second Deemster.*]

Situated so near England, and to a large extent dependent on English money, the tendency has been to assimilate the legislation to the legislation of the English Parliament, in matters material to so small an island.

The periods of legislative activity were during the Lieutenant-Governorships of Mr. Loch (afterwards Lord Loch) and Sir Spencer Walpole. From time to time other legislation has been passed as occasion demanded.

From 1860-1871 Acts of Tynwald of importance were the Summary Jurisdiction Act; the Companies Act; the Asylum Act (to provide for lunatics); the Registration of Deeds Act, 1868; the Wills Act, 1869; the Real Property Act, 1869; the Evidence Act, 1871.

From 1872-1878—the Bankruptcy Act, 1872; the Criminal Code, 1872; the Advocates Act, 1874; various Highway Acts; Acts providing civil registration, and the Elementary Education Act; also a Vaccination Act.

From 1879-1886—the Dangerous Goods Act, 1881; the Rating Act, 1881; the Burials Act; the Tithe Commutation Act, 1883; the Isle of Man Judicature Act, 1883; the Bills of Exchange Act, 1883; the Ecclesiastical Civil Judicature Transfer Act, 1884; the Local Government Act, 1886.

From 1887-1895—the Poor Relief Act, 1888; the Statute of Limitation, 1891; the Settled Land Act, 1891; the Bankruptcy Code, 1892; the Sale of Goods Act, 1895; the Married Women's Protection Act, 1897; the Merchandise Marks Act, 1898.

The Acts mentioned above are all (more or less) framed on the model of the English Acts of Parliament.

2. THE CHANNEL ISLANDS: JERSEY, 1900–1902.

[*Contributed by* E. NICOLLE, ESQ.]

Medicine, 1900.—A law was passed to regulate the practice of surgery and medicine in the Island, this year, and designating the degrees which will permit their holders to register.

Fisheries.—Another law was passed to regulate, protect and develop the fisheries of the Island. By it inspectors of fisheries were appointed.

Liquor Licences, 1901.—A law of this year repeals the law of 1883; licences are divided into two categories, "special" and "ordinary."

The "special" permits the sale of spirituous liquors at all times and at all hours to persons residing on the premises, and from 6 a.m. to 11 p.m. during May to September inclusive, and to 10 p.m. during the other months of the year to outsiders.

The "ordinary" licencees possess similar powers, with the exception of the right to sell on Sundays.

A kind of local option exists, whereby the parish assembly (consisting of ratepayers with a special rate qualification) consider applications for licences, and recommend the Licensing Assembly to grant or refuse. The right of the latter assembly to grant or refuse is, however, absolute.

A wine merchant must register his place of business and pay a licence.

A club must apply to the Licensing Assembly to be registered, and guarantees are required that the club is a *bonâ-fide* social club, regularly electing its members, etc., and that no member is directly interested in the sale of liquor to the members of the club.

Wills of Land, 1902.—A law of this year extends the powers of willing realty already existing under the Law on Wills of 1851. Under the Law of 1851, a person possessing realty in the Island could not will the same if he had children or other descendants. This restriction is removed by the Law of 1902, so far only, however, as concerns realty which was bought by the testator.

Exclusion of Foreign Religious Orders, 1902.—Another Law of this year prohibits the settling of foreign religious orders in the Island, passed in view of the fact that many religious orders expelled from France took up residence in Jersey. The law does not apply to religious orders already established in the Island, prior to the date of the introduction of the bill, such as the Jesuits.

II. BRITISH INDIA.

[*Contributed by* Sir Courtenay Ilbert, K.C.S.I.]

1. ACTS OF GOVERNOR-GENERAL IN COUNCIL.

Acts passed—11.

Assam Labour and Emigration.—The most contentious of the measures passed by the Governor-General's Council in 1901 was the Act (No. 6) "to consolidate and amend the law relating to emigration to the labour districts of Assam," which consolidated, with some important amendments, enactments previously contained in Acts of 1882 and 1893, and in a Bengal Act of 1889. The system of coolie labour in the tea-gardens of Assam rests upon the basis of a penal labour-contract, enforceable through the criminal courts, and lasting for a term which may extend to four years. The Acts which recognised and enforced these contracts also contained provisions for regulating the conditions under which labourers were to be recruited and conveyed to their destination, and for protecting them against ill-treatment whilst on the gardens. The Acts provided minutely for the licensing of contractors and recruiters, the grant of certificates to "garden sirdars"—*i.e.*, persons employed in a tea-garden and deputed by their employers to engage labourers for the garden, for the mode in which labour contracts were to be executed, and for the conveyance of labourers to their destination under proper safeguards. But they left a large loophole through which, under the euphemistic term "free emigration," a system of unlicensed and uncontrolled recruiting through contractors had come into existence, and had given rise to grave abuses. The Government of India have repeatedly recognised the exceptional and transitory nature of this system of regulated labour, and are under pledges to revise it or put an end to it when the conditions of Assam are assimilated to those of neighbouring provinces in India. But when the Government introduced their amending bill in 1899, they were of opinion that the time for making this change had not yet arrived. Accordingly the amendments embodied in the bill left the main features of the existing system intact, and were confined to proposals based upon recommendations made by a Labour Commission which had been appointed by Sir Charles Elliott, when Lieutenant-Governor of Bengal. Of these proposals the most important were (1) a power, now embodied in the new Act, for local governments to prohibit the system of unlicensed recruiting through contractors, and (2) an alteration of the minimum wage allowed under the contract. The bill also contained provisions intended to render more effectual the machinery for the protection of recruits and labourers. The statutory minimum wage of the garden coolies, male and female, had remained unaltered since 1865,

and the Government of India proposed to raise it. But this proposal was stoutly opposed by the planters, and gave rise to vehement discussion both inside and outside the walls of the Council Chamber. Eventually the matter was settled by a compromise postponing the date at which the increase in the minimum wage during the second and third years of the term of service was to come into operation.

Mines Regulation.—The Indian Mines Act, 1901 (No. 8), is the outcome of even longer discussions than the Assam Labour Act, and is noteworthy as being the first measure which has placed the mining industry in India under legislative regulation. Its provisions are, as befits an infant industry and an experimental stage of legislation, of a general and elastic character. It provides for the appointment of a chief inspector and other inspectors of mines, and gives them the necessary powers of inspection. It provides for the constitution of local mining boards, consisting of a chairman nominated by the local government, of an inspector of mines, and of two other persons nominated by local mine owners. There are also to be committees to whom questions relating to mines can be referred. The Act requires every mine to have a qualified and responsible manager. It does not fix a minimum wage for the employment of women and children, but enables an inspector of mines to prohibit their employment where in his opinion there is urgent and immediate danger to their life or safety. It requires notice to be given of mining operations and mining accidents. And, finally, it gives the Government of India and local governments large powers of making rules for carrying out the purposes and objects of the Act, both in general terms, and particularly in reference to some twenty-one specified heads of subjects, which cover most of the ground occupied by the detailed provisions of the English Mines Acts. The power of making these rules is subject to the condition that the draft of any fresh rule must, if there is a mining board for the area to which it relates, be submitted to that board for criticism and report, and must then be published for general criticism before it is converted into a rule. There is also a power for mine owners to make special rules for their own mines, subject, however, to the approval of an inspector of mines.

The other Acts of 1901 are of minor importance.

Quarantine.—The Indian Ports Act, 1901 (No. 3), repeals the Indian Quarantine Act of 1870, and substitutes a power to make rules under the Indian Ports Act of 1889 for the segregation of persons suffering, or recently recovered, from infectious diseases, and for enforcing other sanitary regulations in ports.

Administration of Estates.—The Native Christian Administration Act, 1901 (No. 7), exempts native Christians from certain provisions of the Indian Succession Act, 1865, and the Administrator-General's Act, 1874, under which they were obliged to take out probate and letters of administration, and pay succession duty, and places them for the purposes of obtaining

letters of administration in the same position as Hindus, Mohammedans, and Buddhists. This measure of relief was strongly advocated by Sir Harnam Singh.

Statute Law Revision.—The Repealing and Amending Act, 1901 (No. 11), belongs to the category of the Statute Law Revision Acts which used to be passed in England. Its object is to facilitate the citation of certain Indian Acts, to make certain formal amendments in others, and to repeal specifically certain obsolete provisions.

2. MADRAS.

Acts passed—*Nil.*

3. BOMBAY.

Acts passed—6.

Of the Bombay Acts only three require special notice.

Municipal Government.—The Bombay District Municipal Act, 1901 (No. 3), consolidates, with some important amendments, the Bombay Municipal Acts of 1873 and 1884, by which the municipalities in the Bombay Presidency, other than the City of Bombay itself, were previously governed. It may be noted that the term "municipality," as used in the Act, means the municipal council, the members of which are partly elected and partly nominated, and which acts for most purposes through a managing committee.

Intoxicating Drugs.—The object of the Bombay Abkari Act Amendment Act, 1901 (No. 5), is to enable the Bombay Government to tax and regulate the traffic in hemp drugs.

Land Tenure and Revenue.—The Bombay Land Revenue Code Amendment Act, 1901 (No. 6), contains provisions enabling land forfeited for non-payment of revenue to be granted out for short terms and subject to conditions restricting the right of transfer. It was described on its introduction as affording an opportunity for trying an interesting experiment in the creation of non-transferable tenures, and, for this and other reasons, appears to have been construed as an attack on the rights of inheritance and transfer in the Bombay Presidency, and to have excited much uneasiness and alarm among Bombay land-holders. It was assented to by the Government of India with much hesitation, and with an expression of hope that its powers would be cautiously used.

4. LOWER PROVINCE OF BENGAL.

Acts passed—*Nil.*

5. NORTH-WESTERN PROVINCES AND OUDH.

Acts passed—5.

Land.—The late Lieutenant-Governor of the North-Western Provinces, Sir Anthony Macdonnell, would probably consider the North-Western Provinces Tenancy Act, 1901 (No. 2), his principal legislative achievement. It deals with the problems arising out of the dual ownership of land, problems with which its author has recently been called upon to grapple in his native land. According to the immemorial tradition of India, the resident cultivator has a right to cultivate his holding as long as he pays the fair rent for it, and is of good behaviour. But the difficulties of reconciling that tradition with modern economic and social conditions are many and serious. The famous Act X. of 1859, which extended to the North-Western Provinces as well as to Bengal proper, attempted to deal with some of them by creating or recognising a class of occupancy tenants with special rights. These rights were to be acquired by twelve years continuous occupation. The Act was revised for Bengal by the Bengal Tenancy Act, 1885, which created a great stir in its time. It had been previously revised for the North-Western Provinces by Acts of 1873 and 1881, but the legislation embodied in those Acts was admittedly imperfect. The Act of 1901 is a comprehensive measure of consolidation and amendment. It deals both with the occupancy and with the non-occupancy tenant. The landlord, naturally enough, desires to destroy occupancy rights, and to prevent their creation by shifting the tenants' holdings, by evicting them, and by other devices. The tenant, also naturally, desires to strengthen his position and to acquire full powers of transferring or sub-letting his rights. The Act declares that on an exchange of lands under the same proprietor the occupancy right shall attach to the land taken in exchange. It also restricts the power of ejectment, and regulates the power of raising rent. On the other hand, it places restrictions on the power of transferring and sub-letting. For further details reference must be made to the Act itself.

Land Revenue.—The main object of the North-Western Provinces and Oudh Land Revenue Act (No. 3) was to consolidate the revenue for the two provinces (N.W.P. and Oudh) into a single enactment, but it incidentally makes some important changes in the law. The change which led to most discussion, related to what is known in India as *Sir* land. *Sir* land is supposed to be land which the zamindar, *i.e.* the superior holder or landlord, cultivates himself, and therefore corresponds roughly to the home farm or domain land of Western regions. Occupancy right cannot be acquired in *Sir* land, and therefore a favourite mode of checking the growth of these rights is to ear-mark land as *Sir*. One of the provisions of the new Revenue Act was directed against the improper use of this device, and thus the

discussions on the Act were to some extent complementary to those in the Tenancy Act.

The Acts of the year also included an Act (No. 4) to amend the Oudh Rent Act, and (No. 5) the Municipalities Act.

6. PUNJAB.

Acts passed—*Nil.*

7. BURMA.

Acts passed—4.

Miscellaneous.—The new legislature of Burma exercised its powers by amending, in certain minor particulars, its Land Revenue Act, its Military Police Act, its Towns Regulation Acts, and its Court Act.

8. REGULATIONS UNDER 33 VICT. C. 3.

Regulations made—7.

Frontier Districts.—The new North-West Frontier Province which has recently been carved out of the Punjab must not be confounded with the old North-Western Provinces, whose appellation has long been a misnomer. Three Regulations were made in 1901 for this new province, and are curious and interesting pieces of legislation. The Frontier Crimes Regulation, 1901 (No. 3), provides for civil and criminal references to councils of elders, and for the passing of decrees and sentences on their findings. It authorises the blockade of hostile or unfriendly tribes, with seizure and detention of their members, and confiscation of their property, the imposition of fines on communities who are accessory to crime, or within whose area murder or culpable homicide is committed, and the imposition of forfeiture on persons accessory to crime, or guilty of serious offences or of conniving at crime. There is also a section which makes adultery by a married woman an offence punishable by fine or imprisonment, but only at the instance of her husband, or of the person who, in his absence, has care of her on the husband's behalf. By other sections power is given to prohibit the erection of new villages or towns on the frontier; to direct the removal of villages, and to demolish buildings used by robbers and other bad characters. Power is also given to remove dangerous fanatics, frontier tribesmen who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, and persons who have blood feuds, or have occasioned a cause of quarrel likely to lead to bloodshed. The powers of arrest are strengthened, and in cases of blood feud security may be taken from fanatics or factions. There is a fine wild frontier flavour about these provisions which suggests rievers and caterans after the heart of Scott or Stevenson.

The Frontier Murderous Outrages Regulation, 1901 (No. 4), strikes the same note. It deals with fanatics who commit or attempt to commit murder, and provides among other things, that if the fanatic is killed in the commission of the offence, his body may be disposed of as the Court thinks fit.

The North-West Frontier Law and Justice Regulation, 1901 (No. 7), makes such modifications and adaptations of the general law and of the local Punjab law as are considered to be required by the conditions of the new province. The provisions as to criminal justice and police contain a track-law, *i.e.* rules as to following up the track of criminals or of stolen animals, and place restrictions on the slaughter of kine and the sale of beef, on the entry into towns of armed men, and on the crossing of rivers by means of buoys or inflated skins. The provisions as to civil justice enjoin the observance of custom, give power to declare rules of descent, and recognise and regulate the right of pre-emption. There are also elaborate provisions as to the constitution and powers of different classes of court.

The minute, formal and technical character of some of the provisions contained in these Regulations suggests a doubt whether, in framing them, legislative powers have not been stretched beyond their proper province, and whether some of the matters with which they attempt to deal would not have been more appropriately dealt with by executive discretion regulated and tempered by executive instructions. Fixed law is a good thing. Discretion, wisely exercised, is also a good thing in places and circumstances to which fixed law is not applicable. But discretion masquerading as law is apt to be grotesque.

Other Regulations of the year consolidate and amend the law relating to Courts in Coorg (No. 1), exclude the hill district of Arakan from the operations of the Stamp Act (No. 2), and amend the Upper Burma Land and Revenue Regulation (No. 5).

III. EASTERN COLONIES.

1. CEYLON.[1]

[*Contributed by* Frederick H. M. Corbet, Esq., *and* Richard F. Honter, Esq.]

Ordinances passed—26 (between January 9th and December 19th, 1901).

Leprosy (No. 4).—This Ordinance was passed in response to a demand for more serious attention to the prevalence of infectious diseases. It recognises the existence of an asylum already established, and provides for the

[1] Ordinances Nos. 1, 2, 3, 5, 7, 8, 12, 16 and 20 of 1901 had not been received when this review went to press.

appointment of other places for the segregation and treatment of lepers in the Island. Strict regulations are laid down for the conduct of leper asylums.

Firearms (No. 6).—The objects of this Ordinance are the repression of crime—a constant theme of discussion in the Island—and the establishment of the ordinary restraints upon the possession and use of firearms which obtain in a civilised community. Precaution is taken to avoid any hindrance to the manufacture of or trade in guns. Under this Ordinance the possession or use of firearms is conditional on the holding of a licence. Offences under this Ordinance are triable in the police court. Powers to search for suspected firearms are given to certain officials; the occupier of a house is deemed to be the owner of any firearms found on his premises; severe penalties are imposed, not only on the person who has an unlicensed firearm, but on the headman or peace officer who, believing him to have it, fails to inform against him. Half the fine recovered from an offender may be paid to the informer.

Carriers (No. 9).—The law relating to vehicles carrying passengers and goods for hire, to the use of lamps on vehicles at night, and to the "rule of the road," is amended and consolidated.

Irrigation (No. 10).—The Irrigation and Paddy Cultivation Ordinances, 1889 and 1892, are amended. The obstruction of irrigation works, the waste of water obtained from them, and its unlawful use are all made offences; and jurisdiction is given to the village tribunals to deal with them.

Poisons (No. 11).—Regulates the possession and sale of poisons. The Principal Civil Medical Officer of the Island is authorised to add from time to time to those enumerated in the schedule. Government agents are to issue licences for the sale of poisons (in which all preparations of opium are included). The unlicensed sale of these is prohibited under pain of a heavy fine.

Currency (No. 13).—This measure will probably have important economic effects. It restores gold coin to the position it held in the Island thirty years ago as legal tender.

Firearms (No. 17).—The sale of firearms is prohibited without a licence costing fifty rupees per annum.

Revised Edition of Statutes (No. 18).—The latest revised edition of the Legislative Enactments (ed. 1901 by Herbert White and H. A. Loos) is legalised.

Definition of Terms, etc. (No. 21).—The signification of the word "sign" is extended so as to cover the mark of a witness who is unable to write. Clause 5 lays down the principle that the repeal of a law which had itself repealed another law cannot be deemed to have revived the latter without some express provision to that effect. Clause 8 provides against the contingency of an offender being liable to the operation of two or more laws; in this case he is to be prosecuted and punished under either or any, but not

both those laws. A later section makes the law relating to the head of a department apply to his subordinates in the performance of lawful duties attached to the office. Similarly the successors of the officers of a corporation having perpetual succession are brought within the operation of the law applying to the officers only. Certain authorities are granted the power of making rules; the maximum penalty for the breach of these is fifty rupees, recoverable in the same manner as a police court fine. These rules must be published in the *Government Gazette*, and must be in accordance with the laws for the time being in force.

Appeals (No. 23).—This Ordinance amends the Civil Procedure Code, 1889. When two judges of the Supreme Court hearing an appeal do not agree, the appeal is to be re-heard by three judges, except where the appeal is from the decision of a judge of the Supreme Court sitting alone, and, in that case, the original judgment is to be affirmed. If all the judges hearing an appeal are unanimous, they shall pronounce their judgments in order of seniority, beginning with the senior judge, but if not, in the reverse order. Any judgment from which appeal is intended to be taken to his Majesty in Council must be reviewed by three judges of the Supreme Court; security for the payment of costs of the hearing in the review must be given by the appellant, who must apply for a hearing in review within two months after judgment.

The Supreme Court (No. 24).—An addition is made hereby to the Supreme Court Bench; in future it is to consist of one Chief Justice and three Puisne Justices (instead of two as hitherto). In criminal cases the Chief Justice is granted discretionary powers, whereby a party committed for trial before the Supreme Court may be granted a trial before three judges of that court and a jury. Finally, the Chief Justice is empowered to order the hearing of any case brought by way of appeal to the Supreme Court before all four judges. In the event of an equal division of opinion, that of the Chief Justice and one other judge is to prevail.

Registration of Dogs (No. 25).—Climatic conditions engendering the growth of rabies have given rise to this measure. All dogs have to be registered, and their owners must obtain and hold certificates of registration. Provision is also made for the destruction or disposal of stray dogs.

2. STRAITS SETTLEMENTS.

[*Contributed by* WALTER NAPIER, ESQ., *Member of the Legislative Council*, D.C.L.]

Ordinances passed—21.

Foreshore and Sea Bed (No. 1.)—From time to time grants had been made by the Colonial Government in the name of the Crown of portions of the foreshore and sea bed of the Colony for the making of wharves, reclamation

and other purposes. No thought having been given to the rights of the public the grantees assumed that they had acquired the land free from any such rights. The question arising when it was proposed to make a further grant to the Tanjong Pagar Dock Co., Ltd., the English law officers were consulted and having advised legislation, the Ordinance under review was passed. Under it (1) former grants are to be deemed valid conveyances of the foreshore or sea bed free from all public rights, and (2) power is given to the Governor to make leases for any term not exceeding ten years. Before any lease is granted notice is to be given in the Government Gazette, and after objections have been heard, only foreshore or sea bed may be leased which may be declared by the Governor in Council not to create a substantial infringement of public rights. Each lease must state the purposes for which it is required, and its effect is to convey the land free from all public rights so far as is necessary for carrying out such purposes.

Land Improvement.—No. 2 provides a procedure whereby improvements to agricultural land such as irrigation or rain works may be carried out by the Government. Full opportunity is given to the proprietors of the land to be affected, of expressing their assent or dissent from any scheme, and should the Governor in Council decide to carry out any improvements, they are effected under the supervision of the Colonial Engineer. The cost of the works is apportioned between the proprietors, who repay by ten yearly instalments—the subsequent maintenance of the works being paid for by a small annual sum charged on the land.

No. 5 consolidates and amends the Ordinances making provision for the granting of pensions to the widows and orphans of persons employed in the service of the Colonial Government.

Malacca Customary Lands Transfer (No. 7).—The position of Malacca has differed materially from that of the other Settlements in that when it came under British rule it had a fixed population largely Malay, whilst they were practically uninhabited. The country land in Malacca was held by a customary Malay tenure—the land belonging to the State or to grantees from it, whilst the tenant had to pay to the State or the grantee a portion of the produce in kind (nominally one tenth), and had to give without payment his labour to an extent which was undefined. It was not until 1886 that the last of the grantees were bought out and this tenure placed upon a satisfactory footing. In that year the Malacca Lands Ordinance, 1886, was passed, and the rights and liabilities of the holders of the customary lands were defined. Under that Ordinance, as subsequently amended, the customary land holder is liable (1) to payment of a rent which is not to exceed one-tenth of the value of the produce which the land may be fairly estimated to yield in an average year; (2) to give his services, free, for the performance of such works and duties for the common benefit of himself and the other customary land holders of his district as have hitherto been customary; and (3) to prepare the "Sawah" (irrigated rice fields) for planting,

and to plant the rice simultaneously with the other customary land holders of his district. Upon the death of a customary land holder being a Mohammedan, his land is not to pass under his will or to his next of kin, but is to descend according to Mohammedan law as varied by local custom (if any). The object of the Ordinance under review is to provide a simple system of transfer and registration of title to these customary lands. A declaration of a transfer or mortgage before the Collector of Land Revenue is substituted for a conveyance or mortgage by deed, and a registration of title provided, which is to be conclusive except in cases of fraud.

Cattle.—No. 13 enables the Governor in Council to regulate the transit of cattle and other live stock by sea.

Lepers.—No. 16 amends the law with regard to lepers. In the main it is concerned with mere details, but it contains one important section (dictated by the recent decision of the English College of Physicians, which finally dispelled any doubts as to the contagious nature of the disease) which empowers a magistrate if he is satisfied that any leper is not maintained in a state of isolation from the general public to order his detention in a Leper Asylum.

Civil Procedure (No. 21).—A considerable amount of business is done in Singapore and Penang by absentee persons and firms through agents, and frequently if any dispute arises a difficulty is experienced in taking legal proceedings against the principal. To remedy this defect the following section has been passed :—

(i) In a suit relating to any business or work against a person who does not reside within the Colony or who is absent from the Colony service of a writ of summons for service within the jurisdiction on any manager or agent having at the time of service personally the control or management of such business or work for such person within the Colony shall be deemed good service whether such person be a British subject or not.

(ii) For the purposes of this section the master and the agent of a ship shall be deemed to be the agent of the owner and charterer of such ship.

In case of non-appearance the plaintiff may apply for leave to enter final or interlocutory judgment upon notice to the person having at the time of service the control or management of the defendant's business, and the Court may give such leave or order personal service on the defendant, or extend the time for appearance, or make such other order as it thinks fit.

3. MAURITIUS.

[*Contributed by* His Honour Mr. Justice Wood Renton.]

Stamp Duty on Shares.—No. 9 of 1901 provides that the stamp duty imposed by item 7, schedule B. of No. 2 of 1869, as amended by No. 15 of 1900, shall be levied in the case of registration in the books of any company,

of shares accruing to the heirs and legal representatives of a deceased shareholder.

Merchant Shipping.—No. 10 of 1901 extends Ordinances No. 5 of 1874, and No. 40 of 1897-8, which provide for the survey and detention of British and foreign unseaworthy ships, to cases of undermanning.

Colonial Stock.—No. 13 of 1901 enables advantage to be taken of the Colonial Stock Acts, 1877-1900 in respect of the investment of trust funds in Mauritius Governmental securities, (1) by providing in compliance with the order of the commissioners of the Treasury, dated December 6th, 1900, for the payment of money adjudged due to stock holders by the final judgment of any Court of competent jurisdiction in the United Kingdom forthwith, by the Auditor-General on the certificate of the Crown Agent, and (2) by placing on record, in compliance with the same order, a formal expression of the opinion of the Colonial Government, that any Colonial legislation which appears to the Imperial Government, to alter any of the provisions affecting the stock to the prejudice of the stock holder, or to involve a departure from the original contract in regard to it, would properly be disallowed.

Rates and Taxes.—No. 18 of 1901 provides for the recovery by attachment of rates and taxes due to Government, the municipality, and the commissioners of townships.

Mortgages.—No. 19 of 1901 imposes on the conservator of mortgages, in addition to the preservation of mortgages, the duties (1) of transcribing transfers of property and other deeds of a similar character, (2) of levying the fees accruing to the Treasury in respect of his office, and (3) of keeping besides the register prescribed by the Code Civil, a "répertoire"—*viz.* an analytical summary of all inscriptions, erasures, and other transactions. The legal effect of an inscription is to be limited to ten years. The Ordinance regulates the security to be furnished by the conservator on taking office.

Crown Lands.—By No. 21 of 1901, the lease of the right of shooting, etc., on Crown lands may be put up to auction. The lease is to be for a period of seven years.

Penal Code.—No. 22 of 1901—amending the Penal Code of the Colony—punishes by imprisonment not exceeding a year, and fine not exceeding Rs. 1000: (i) outrages against morality and religion by words spoken in public, or writings, engravings, pictures, etc.; (ii) instigation by similar means to contempt or hatred of the person of the King, the Royal Family, the Governor, or the Government of the Colony, or of Great Britain; (iii) instigation to disobedience or resistance to the laws; (iv) defamation by the means enumerated *supra* under (i). "Decently expressed" criticism on religious subjects is not an offence under (i); nor is it an offence under (ii), or (iii), to contend that the King or Governor has been mislead or mistaken, to point out errors and defects

in the Government or constitution, or to urge agitation with a view to alter the law. "Defamation" under (iv) includes any imputation on the honour, character, or reputation of a deceased person if calculated "to throw discredit on, or be hurtful to, the feelings of the family or relatives of the deceased." Fair and *bonâ fide* comments and criticism are protected. The owner or editor of any newspaper is bound under a maximum penalty of Rs. 500 to publish a reply from any person attacked in its columns, within three days; or in the next number if the paper is not a daily one. The insertion is to be in the same type and place as the original article, and is to be made without charge if it do not exceed twice the length of the article. In that case the extra is to be charged for at advertisement rate. No prosecution for defamation is to lie against (i) the president or any member of the Council and Government for anything said or written by him in that capacity, in council or any committee thereof; (ii) any judge or magistrate, member of the Parliament, barrister or advocate, witness or party, for anything so said or written officially, or in the course of judicial proceedings. Penalties are also prescribed for criminal intimidation, insults and malicious denunciation in writ.

No. 23 of 1901 regulates certain questions of jurisdiction and procedure in cases of defamation.

Quarantine.—No. 24 of 1901 consolidates and amends the quarantine laws.

4. HONG-KONG.

[*Contributed by* Frederick H. M. Corbet, Esq., *and* Richard F. Honter, Esq.]

Ordinances passed—37 (between February 7th and December 27th, 1901).

Defence Contribution (No. 1).—This Ordinance replaces that of 1896; 20 per cent of the Colonial revenue is appropriated for the purpose of Imperial Defence, but the sum paid by way of percentage shall not exceed the cost of the local garrison.

Bankruptcy (No. 2).—The act of bankruptcy on which a petition is to be founded may be committed, according to this Ordinance, either by a partner or the manager of a firm in the course of its business. A receiving order against the firm in its name will be sufficient for all purposes, and will affect both the joint and separate properties of all the partners. The fact that all these are not British subjects or not ordinarily resident in the Colony will not prejudice creditors' rights in bankruptcy proceedings.

Indecent Assaults (No. 3).—The criminal law on these offences is

amended by this Ordinance. Two years with or without hard labour are prescribed as the maximum penalty for the attempt to commit or the commission of any act of gross indecency by a male with another male. The consent of a young person under thirteen years will be of no avail against a charge of indecent assault.

Fusion of Law and Equity (No. 4).—By this Ordinance ss. 24 and 25 of the Supreme Court of Judicature Act, 1873, are re-enacted and made a part of the law of the Colony.

Code of Civil Procedure (No. 5).—The first two parts deal with actions general and special; the next two treat of provisional remedies and appeals. Part V. is a collection of rules concerned with business in chambers, the sittings of Court, questions of time, temporary provisions, and matters of minor import. On the occurrence of cases for which no provision has been made by this Ordinance, the rules of the English High Court of Justice are to apply, with the modifications necessitated by circumstances.

Outlawry (No. 6).—No person may be outlawed in civil proceedings nor shall proceedings to outlawry be taken by the Crown (42 & 43 Vict., c. 59, ss. 2, 3, and 4). Opportunity is taken to repeal a number of obsolete Ordinances.

Trustees (No. 7).—The laws relating to trustees are amended and consolidated. Provision is made for continuing the office of Official Trustee.

Rating (No. 8).—This Ordinance amends and consolidates previous enactments.

Libel and Slander (No. 9).—This Ordinance introduces into the Colony some of the recent amendments in the English law on this subject.

Flogging (No. 10).—All previous Ordinances on this subject are amended. The Supreme Court is authorised to award this punishment in certain cases—for instance, where in the commission of the crime the prisoner was armed, or a felon against whom two previous convictions for felony were proved. The procedure for the execution of the punishment is also prescribed.

Medical Department (No. 11).—Misconduct, neglect, or breach of duty by subordinates in the Civil Medical Department is made punishable under this Ordinance by a fine. The Governor alone may remit the fine. The fund thus formed is to be utilised for the general benefit of the subordinate members of this department.

Naturalisation (No. 12).—In view of the publication of a new edition of the Statute Law of Hong-Kong, the numerous Ordinances passed for the naturalisation of persons as British subjects are repealed, the rights of the persons concerned being preserved and their names being recorded in a schedule to the present Ordinance.

Public Health (No. 13).—Consolidates and amends the laws relating to public health.

Reformatory Schools (No. 14).—This Ordinance does the same with regard to reformatory schools, giving police magistrates wide powers over

children habitually begging or receiving alms (even though under the pretext of selling) or habitually wandering, etc.

Intestacy: United States Citizen (No. 19).—When a citizen of the United States dies intestate within the Colony, the nearest American Consular Officer is to be informed thereof; he is further granted the right of appearing in all proceedings on behalf of the absent heirs or executors.

Gunpowder (No. 20).—This Ordinance reproduces some of the provisions of the Explosives Act, 1875. Gunpowder may not be manufactured within certain prescribed limits. A licence must be obtained for its manufacture outside these limits. Hawking or sale in the public streets is forbidden. Special regulations control the storage of gunpowder. Government inspectors are appointed with power to visit and examine manufactories. Any obstruction of these officers in the performance of their duties renders the offender liable to a fine. In case of explosion or fire on any licensed premises, immediate notice of the accident and loss of life or personal injury must be given to the Captain Superintendent of Police. Magistrates are empowered to issue search-warrants on suspicion of the commission of an offence punishable under this Ordinance within any licensed premises.

Crown Leases of Foreshore (No. 21).—All Crown leases of the foreshore made before this Ordinance for purposes of reclamation are declared valid. The Governor is empowered to grant leases for harbour improvement, etc., and the benefit of commerce. Certain provisions must be made in every lease, such as the right of re-entry and a reservation of mines and minerals for the Crown.

Stamps (No. 22).—All the laws with reference to stamps and stamp duties are hereby amended and consolidated.

Copyright (No. 24).—25 & 26 Vict., c. 68, is incorporated in the law of the Colony.

Weights and Measures.—No. 26 amends Ordinance No. 8 of 1885 in respect of the examination of suspected weighing machines and the penalties for fraud in the use or sale of weights and measures.

New Territories Land Court (No. 27).—The Ordinance of 1900 created a Land Court for the settlement of disputes over land in the newly acquired territories. Further legislation being needed to facilitate its action, the Registrar of the Court is empowered to subpœna any person to appear before him and give information about land to which a claim has been made. Claims may be dismissed if the claimant is unable to define the boundaries of the land claimed to the satisfaction of the Court, or fails to prosecute his claim. The acquisition of land in the public interest by the Governor is legalised; one of the functions of the Court is to decide and award the compensation due to persons thus dispossessed.

Repeal of Statute Law (No. 29).—Twenty-four Ordinances are hereby repealed wholly or in part. 36 & 37 Vict., c. 66, s. 25 (2), is made law in the Colony.

Building (No. 30).—No structure may be built exceeding in height one-and-a-half times the width of the street. Domestic buildings may not exceed four stories in height. Restrictions are imposed on the erection of balconies and verandahs.

Merchant Shipping (No. 31).—After many minor amendments in Ordinance No. 36 of 1899, a new set of rules dealing with the engagement and discharge of masters and engineers is enacted, and a new table of quarantine regulations is substituted for those in force under the earlier Ordinance.

Trustee Securities (No. 35).—This Ordinance is intended to bring Hong-Kong Government securities within the purview of the Trustee Act of 1893, and the order of the Lords of the Treasury dated December 6th, 1900, prescribing provision by Colonial legislation for the payment of sums becoming due to holders of local stock. On the adjudication by an English Court of a sum payable in respect of Hong-Kong Government securities, the Crown Agents for the Colonies are empowered to pay it out of the funds entrusted to them for this purpose.

Tramway (No. 36).—Powers are given under this Ordinance to the Hong-Kong Rope Manufacturing Company to construct and maintain a tramway for the purpose of goods traffic.

Chinese Emigrants (No. 37).—The Chinese Emigration Consolidation Ordinance of 1889 is hereby amended. No Chinese emigrants excepting first and second class passengers are allowed to embark unless they have lodged at a licensed boarding-house forty-eight hours previous to examination by the Emigration Officer. The greatest precautions are taken in licensing such houses. The keeper of a licensed boarding-house must enter into a bond in a large sum, and must further have the support of two approved sureties. Returns must be made to the Registrar-General by these keepers, giving full particulars of every intending male emigrant under sixteen years of age, and every intending female emigrant. A new schedule of rules is substituted with reference to Chinese passenger ships proceeding on voyages of not more than thirty days' duration.

IV. AUSTRALASIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* A. R. Butterworth, Esq.]

Acts passed—Public, 17.

Introductory Observations.—It was to be expected that the work of the first Session of the first Parliament of the Commonwealth of Australia should lead to the passing of Statutes of primary importance, and the result accords with expectation. Four of the seventeen Acts passed in 1901 are Consolidated Revenue Acts. Among the remaining thirteen are important Acts dealing with the Interpretation of Acts (No. 2), Audit (No. 4), Customs (No. 6)—an Act of 277 clauses, containing elaborate provisions for the collection of duties, etc., and a list of "prohibited imports"—Excise (Nos. 7, 8, 9), the Service and Execution of Process, civil and criminal, throughout the Commonwealth (No. 11), the Postal and Telegraph Services (No. 12)—an Act which stipulates that only white labour shall be employed in the carriage of Australian mails—the Acquisition of Property for Public Purposes (No. 13)—an Act drawn somewhat on the lines of the Imperial Lands Clauses Consolidation Act, 1845—and finally two Acts which are of perhaps more general interest than any of the others :—an Act for the restriction, and in a few years the prohibition, of the introduction of labourers from the Pacific Islands (No. 16)—an Act which is causing, and is likely to cause in the immediate future, considerable agitation in Queensland, the State principally affected by it—and the Immigration Restriction Act (No. 17), founded on the well-known Natal Act of 1897, but more sweeping still in its provisions.

Interpretation (No. 2).—The provisions of this Act follow in the main those of the Imperial Interpretation Act, 1889, and possess the advantage of not having to distinguish between past and future Statutes, but apply to all Acts of the Commonwealth Parliament (s. 2). The Act also adopts some of the special provisions of the New South Wales Interpretation Act of 1897 (No. 4).[1] Distance is to be measured, not, as under the latter Act, according to the nearest route ordinarily used,[2] but, as under the Imperial Act, in a straight line on a horizontal plane (s. 35). "Person" is to include a "body politic" as well as a body corporate—an enactment which may possibly conduce to strange results. "Land" is to include "messuages, tenements and hereditaments, corporeal and *incorporeal*, of any tenure or description"—a definition which, by ignoring the fundamental distinction that runs through all our law of real property between lands on the one hand and incorporeal

[1] As to this Act, see this Journal, vol. i., 1899, p. 111.

[2] See observations on this provision, *ibid.*

hereditaments on the other, seems likely to lead to much confusion.[1] The "financial year" is made to end on June 30th, not, as in England, on March 31st (s. 22). Where time is referred to, "such time shall, unless it is otherwise specifically stated, be deemed in each State or part of the Commonwealth to mean the standard or legal time in that State or part" (s. 37).

Audit (No. 4).—This Act provides for the appointment of an Auditor-General and other officers, for the keeping of the public account with a bank, the regulations to be observed before public money can be withdrawn, the adjustment of accounts of the various States by the Treasurer's transferring money from one bank to another, the audit and inspection of accounts, returns and vouchers, the publication of quarterly and yearly statements, and of the yearly report of the Auditor-General, which is to be laid before Parliament. Provision is also made for keeping a separate account in the Treasury of a Loan Fund and also of a Trust Fund; for imposing penalties for offences; and for enabling the Governor-General to make regulations for carrying out the provisions of the Act.

Evidence (No. 5).—This Act, to be cited as the State Laws and Records Recognition Act, 1901, provides for judicial notice being taken by all Courts within the Commonwealth of all State Acts of Parliament, and of certain seals and signatures, and for the proof in such Courts of certain documents, matters, and judicial proceedings. "Courts within the Commonwealth" include all Courts exercising federal jurisdiction, the Inter-State Commission when sitting as a Court, and all Courts of the several States and parts of the Commonwealth (s. 2). By s. 8 "whenever by any State Act at any time in force in any State (*a*) any public document; or (*b*) any record required by law to be kept of any public document or proceeding; or (*c*) any certified copy of any public document or by-law or of any entry in any public register or book is admissible in evidence for any purpose in that State, it shall be admitted in evidence to the same extent and for the same purposes in all Courts within the Commonwealth, if it purports to be sealed" or stamped or signed as directed by such State Act, without any further proof, in every case in which the original document could have been received in evidence. The effect of this enactment would seem to be to adopt throughout the Commonwealth the widest provision made in any individual State as to the admission in evidence of such a document provided the State Act directs that it should be sealed, stamped or signed. Such a provision, however, as that contained in the New South Wales Evidence Act, 1898, No. 11, s. 19,[2] whereby evidence

[1] It is true that a similar definition of "land" has been given in earlier Acts of various Australian States, but this fact does not remove the objection to it. Such a definition in a general Interpretation Act seems likely to lead to more confusion than if it were contained only in such Acts as those dealing with the transfer of land, although in these also it can hardly fail to raise points of construction very difficult of solution.

[2] This section will be found set out in full in this Journal, vol. i., 1899, pp. 498-499.

of any written law of any State, British or foreign, may be given by producing a printed copy in a volume of such law, purporting to be published by the authority of the Government of such State, but not requiring such a document to be sealed, stamped, or signed, is not within the terms of the present enactment. The expression in this and the following section, "at any time in force in any State," appears not to be a very happy one, as it is wide enough to cover a *repealed* State Act; but it is presumed that it is intended to be equivalent to "for the time being in force in any State."

Customs (No. 6).—This Act of 277 sections is divided into seventeen parts, and deals with the customs generally. Part IV., relating to the importation of goods, has four divisions: (1) prohibited imports; (2) the boarding of ships; (3) the report of the cargo; (4) the entry, unshipment, landing, and examination of goods. The importation of prohibited articles is forbidden under a penalty of £100 (s. 50), and prohibited imports include the following: Articles infringing copyright existing in the King's dominions, of the existence and date of expiration of which written notice has been given to the Minister administering the customs by or on behalf of the proprietor of such copyright; goods manufactured or produced wholly or in part by prison labour, or which have been made within or in connection with any prison, gaol, or penitentiary; tea, either exhausted, or adulterated, or unfit for human use, or unwholesome; oleomargarine, butterine, or any similar substitute for butter, unless coloured and branded as prescribed; all goods the importation of which may be prohibited by proclamation; goods having thereon or therewith any false suggestion of any warranty, guarantee, or concern in the production or quality thereof by any persons, public officials, Government or country; and mineral oil and mineral spirits, unless imported under and subject to such restrictions as may be declared by proclamation (s. 52). No spirits, opium, tobacco, snuff, cigars, or cigarettes are to be imported except in packages as prescribed (s. 53). Provision is made for the examination and analysis of imported tea (s. 54). All goods lawfully prohibited to be imported in any State are as regards that State to be prohibited imports (s. 55). Lists of copyright books of which due notice has been given under s. 52 are to be open to public inspection at the principal ports (s. 57). The Act contains special provisions respecting the boarding of ships, the places they may enter, and their removal before discharging the cargo (ss. 58-63); and the report to be made by the master to the Collector by delivering an inward manifest, and the questions to be answered and the documents to be produced by him (ss. 64, 65).

Part V. (ss. 78-110) deals with the warehousing of goods, and Part VI. (ss. 111-126) with exportation. The exportation of the following goods may be prohibited, either generally or to any particular place: "All arms, explosives, military and naval stores the export of which is prohibited by proclamation, including any article which the proclamation shall declare to be military

or naval stores, or to be capable of being converted into them or of being made useful in increasing the quantity thereof" (s. 112). "Ships' stores, whether shipped in ports beyond the seas or in the Commonwealth, unless entered for home consumption, or except as prescribed, shall only be used by the passengers and crew and for the service of the ship and after the departure of such ship from her last port of departure in the Commonwealth" (s. 127). Respecting the alteration of duties, the following provision is made by s. 152:—

"If, after any agreement is made for the sale or delivery of goods duty paid, any alteration takes place in the duty collected affecting such goods before they are entered for home consumption, then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

"(*a*) In the event of the alteration being a new or increased duty, the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.

"(*b*) In the event of the alteration being the abolition or reduction of duty, the purchaser may deduct the difference caused by the alteration from the agreed price.

"(*c*) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require."

In the case of *ad volerem* duties "the value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptation of the term and free on board at the port of export in such country, and a further addition of ten per cent. on such market value" (s. 154).

"Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods, he may detain such goods and assess the value thereof. Should the owner object to the value so assessed, he may request that the value may be ascertained by experts in manner prescribed. Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts, the Collector may sell the goods. The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted" (s. 158).

"(1) For the protection of the revenue against the under-valuation of goods subject to *ad valorem* duties, any goods entered as of a specified value may, at any time before sale and delivery to a person who shall prove to the satisfaction of the Collector that he purchased and took delivery in good faith and without any knowledge of the entry, and subject as may be prescribed, be purchased by the customs at their declared value with an addition of £10 per cent. on the amount of such value. (2) The purchase shall be effected by the seizure of the goods by an officer and written notice of the seizure given to the owner" (s. 161).

Part IX. (ss. 168-174) deals with drawbacks, and provides that "drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits, wine, beer, tobacco, cigars, cigarettes, and opium) to such amount and in such manner as may be prescribed" (s. 168).

The remaining parts relate to the coasting trade, agents of owners of goods, the powers of officers acting under the Act, penal provisions, prosecutions, the settlement of disputes, regulations, and miscellaneous matters.

Excise (Nos. 7, 8, 9).—These three Acts relate to excise. The Excise Act (No. 9) deals with excise generally, providing for administration, the licensing of manufacturers, excise supervision and control, and the punishment of offences by forfeiture and penalties. No person is to produce "material" for the purpose of sale or manufacture unless he is registered as a producer (s. 25), and "material" includes all material used in the manufacture of excisable goods—*i.e.*, goods in respect of which Parliament imposes excise duty—and declared by proclamation to be material (s. 4). No fees are to be charged for the registration of producers or dealers under the Act, but licence fees shall be as prescribed (s. 14). The fees prescribed by Schedule VIII. for a factory licence are for the manufacturing of tobacco, cigars, cigarettes, and snuff.

The Beer Excise Act (No. 7) and the Distillation Act (No. 8) expressly incorporate the greater part of the provisions of the Excise Act. These Acts provide for the licensing of brewers and distillers, and the supervision and regulation by excise officers of breweries and distilleries respectively, and the computation and payment of duty, and declare the powers of excise officers. Offences as to illicit stills and spirits are punishable by fine not exceeding £500.

Process (No. 11).—The Service and Execution of Process Act, 1901, provides for the service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States and of other parts of the Commonwealth. Three Acts of the Federal Council of Australasia[1] are repealed (s. 2)—viz., the Australasian Civil Process Act, 1886; the Judgments Act, 1886; and the Testamentary Process Act, 1897—and the main provisions of the two former Acts are re-enacted. A writ of summons issued out of any Court of record of a State may be served on the defendant in any other State (s. 4). The time limited for

[1] The powers of this extinct body were transferred to the Parliament of the Commonwealth by the Constitution Act, 1900, s. 51 (xxxviii.). The small interest taken in the Statutes of the Federal Council affords a curious comment on its legislative labours. In the review of legislation for 1897 in this Journal, vol. i., 1899, no reference is made under Australasia to any legislation by the Federal Council, an omission not much to be wondered at, as its Acts have received scant recognition in Australia itself. The 1890 edition of the Victorian Statutes in seven large volumes contained the seven Acts of the Federal Council which had up to January, 1891, been passed, but the later Acts were not published in the sessional volumes of the Victorian Statutes, nor it is believed in those of any other Colony.

appearance, if the writ is issued or to be served in Western Australia or in the Northern Territory, is forty-five days, otherwise thirty days (s. 8). Any defendant served under the Act may apply for an order, which the judge may make, compelling the plaintiff to give security for costs (s. 10). Provision is made for the plaintiff to obtain leave to proceed on default of appearance (s. 11). A summons for a criminal offence, punishable by indictment or summarily, sworn to have been committed in one State may be served in another State on the person charged (s. 15); and a subpœna or summons issued in one State to a witness to appear in a civil or criminal proceeding may, upon proof that his testimony is necessary in the interests of justice, by leave on such terms as the Court, judge, or magistrate may impose, be served on the witness in any other State; and if he fails to attend, on proof of due service and that reasonable expenses were tendered, a warrant for his apprehension may be issued (s. 16). A writ of attachment for contempt or disobedience of an order of a Court of record of one State may be executed in another State, by leave of a judge of the High Court or of a judge of the Supreme Court of such other State (s. 19). Where a judgment is given in one State, provision is made for registering and enforcing it in another State (ss. 20-26). Authority is given to the Governor-General to make regulations for carrying out the provisions of the Act (s. 28).

Post and Telegraph (No. 12).—This Act, which came into force on December 1st, 1901 (s. 1), contains 159 clauses, and is divided into nine parts, as follows: I.—General (ss. 3-65); II.—Conveyance of mails by ships (ss. 66-73); III.—Money orders and postal notes (ss. 74-79); IV.—Telegraphs (ss. 80-96); V.—Regulations (s. 97); VI.—Penalties (ss. 98-139); VII.—Protection of telegraph lines from injurious affection by electric lines or works (ss. 140-150); VIII.—Legal proceedings (ss. 151-156); IX.—Notice and limitation of actions (ss. 157-159).

The Act repeals twenty-one Post and Telegraph Acts of the several States, but preserves existing regulations and rates and charges (s. 2 and Schedule I.). It gives the control of the postal and telegraphic services of the Commonwealth to the department of the Postmaster-General, in whom the administration of the Act is vested (ss. 4, 5). S. 16 enacts that—

"(1) No contract or arrangement for the carriage of mails shall be entered into on behalf of the Commonwealth unless it contains a condition that only white labour shall be employed in such carriage.

"(2) This condition shall not apply to the coaling and loading of ships at places beyond the limits of the Commonwealth."

Railways and tramways must carry mails when required, for which payment is to be made according to agreement, or in default of agreement as settled by arbitration (ss. 17, 18).

Postage of one penny is to be charged on letters not over half an ounce forwarded *by* or addressed *to* seamen on actual service in the King's

Navy or Marine Defence Force of any British possession, or *to* a non-commissioned officer or man on actual service in the King's Regular Forces or permanent Land Force of any British possession, provided it "bears on its face" certain particulars; but the section does not apply to the letters of "a commissioned or warrant officer in the Land or Marine Forces or a midshipman in the Marine Forces" (s. 21). The definition of a newspaper is very wide. It must consist "in substantial parts of news and articles relating to current topics, or of religious, technical, or practical information," and be published in numbers at intervals of not more than one month; while a supplement must consist "in substantial part of reading matter other than advertisements" or of engravings, etc.[1] (s. 28). Newspapers must be registered in order to be posted as such, and a publication may be removed from the register if "by reason of the proportion of advertisements to other matter therein, or for any other reason," it is not within the description given; an appeal against such removal lying to a judge (s. 29). Provision is made for the issue of postage stamps (ss. 30-36), the registration of letters, etc. (s. 38), and for dealing with postal articles generally. Part VII. of the Act places restriction upon works for the generation, use, or supply of electricity whereby any Government telegraph line may be injuriously affected.

Property for Public Purposes Acquisition (No. 13).—This important Statute of sixty-three sections is divided into six parts as follows: I.—Preliminary (ss. 1-2); II.—Mode of acquisition of land (ss. 3-12); III.—Compensation (ss. 13-29); IV.—Mortgages, charges, and leases (ss. 30-44); V.—Acquisition of property from a State (ss. 45-48); VI.—Miscellaneous (ss. 49-63).

Part II. empowers the Governor-General to agree with the owners (which includes "any person who under this Act is enabled to sell or convey land": s. 2) "of any land required for any public purpose, and with any State where such land is Crown land of the State, for the absolute purchase by the Commonwealth for a consideration in money or its equivalent of such land, or for the exchange of such land for any land of the Commonwealth" (s. 3); and also to acquire land compulsorily. S. 4 (adopting ss. 7 and 8 of the Imperial Lands Clauses Consolidation Act, 1845) empowers parties under disability to sell and convey land to the Commonwealth for the purposes of the Act, and to make agreements for that purpose, and to release land from, and agree for the apportionment of, any rent-charge or incumbrance.

SS. 6 to 12 provide for compulsory acquisition. The Governor-General may by notification declare that the land has been acquired (s. 6), and upon the publication of such notification in the *Gazette*, the land described shall vest in the Commonwealth, freed and discharged from all trusts, obligations,

[1] By the British General Postal Regulations a publication to be registered as a newspaper in the United Kingdom must be published in numbers at intervals of not more than seven days, and a supplement may consist of advertisements.

interests, easements, etc. (s. 7). In certain cases either House of Parliament may declare such notification to be void, and in such case the land shall be deemed not to have vested in the Commonwealth (s. 12). The owner of private land, or a State in respect of Crown land, shall be entitled to compensation (s. 9). S. 10 enacts that—

"(1) For the purpose of constructing any underground work, land under the surface may be acquired under this Act without acquiring the surface.

"(2) In such case no compensation shall be allowed or awarded unless (*a*) the surface of the overlying soil is disturbed; or (*b*) the support to such surface is destroyed or injuriously affected by the construction of the work; or (*c*) any mine, underground working, spring, reservoir, dam or well in or adjacent to such land is thereby injuriously affected."

This section appears to provide very inadequate compensation, and may lead to grave injustice. In some cases the owner may be deprived of property of great value underneath the surface, yet if it is not a "mine," or "underground working," etc., he may be left without compensation. It is obvious too that his land may be injuriously affected to the extent of thousands of pounds in ways for which this section makes no provision, and again he will be allowed no compensation. At the date of the notification, he may contemplate erecting a warehouse, or placing heavy machinery upon the land, but after the notification he will apparently not be entitled to support for such works, or to compensation for the loss of such support, unless the support to the *surface* is destroyed or injuriously affected.

Part III. deals with claims for compensation (ss. 13-14), the determination of the amount of compensation (ss. 15-19), and the payment and application of the purchase money or compensation (ss. 20-29). From s. 13 it appears that no notice need be given to the owner until after the notification which vests his property in the Commonwealth has been published in the *Gazette*; and if he be absent from Australia or cannot be found, a copy of the notification with a plan of the land left with the occupier, or (if there is no occupier) affixed to some conspicuous part of the land, is sufficient notice to the owner. The Act therefore provides for nothing like the "notice to treat" under the Lands Clauses Consolidation Act, 1845; and an option rests with the Government whether they treat with the owner to purchase the land, or take it compulsorily from him, not necessarily giving him any notice of the transaction until after they have acquired his land. Where the right to compensation or its amount is in dispute, the claimant may bring an action in the High Court, which shall be tried by a justice without a jury (ss. 15, 16). S. 17 enacts that—

"(1) Unless the justice otherwise orders, if the judgment . . . is for a sum equal to or less than the amount of the valuation notified to the claimant, the claimant shall pay the costs of the action, but if for a greater sum or if for any sum where the right to any compensation is disputed, the Commonwealth shall pay such costs.

"(2) If the judgment or award is for a sum one-third less than the amount of the valuation, the claimant shall pay the costs of the action.

"(3) The justice before whom the action is tried shall in no case have power to direct a reference to arbitration, except by consent of the parties.

"(4) Either party to the action may move for a new trial or to set aside the finding in accordance with the practice of the High Court."

Where the valuation of the claimant's interest and of the damage does not exceed £1,000, the compensation shall, if the claimant so desires, be settled by arbitration; and if the sum awarded is one-third less than that claimed, all the costs are to be borne by him (s. 18).

Under Part V., where any Crown land of a State is acquired under this Act, or shall in future be acquired under s. 85 of the Constitution Act, the State shall, subject to the Constitution, be entitled to compensation for its value; but "the State shall not be entitled to compensation in respect of the loss of any rights of dominion, taxation, or revenue, or in respect of the severance of such land from any other land of the State, or in respect of any injury to any other land of the State" (ss. 45, 47).

Under Part VI., "the Minister, and all persons authorised by him, may enter upon the land of any person and the Crown land of any State, and may make surveys, take levels, sink pits, examine the soil, and do anything necessary for ascertaining whether the land is suitable for any public purpose," compensation being paid to the occupier for any damage done (s. 49). The Commonwealth may dispose of superfluous land (s. 51), and various powers are conferred, including power to take temporary possession of land (s. 53), and to make regulations for carrying the Act into effect (s. 63).

By s. 53 (3), "nothing in this Act contained shall exempt the Commonwealth, or any person sued on behalf of the Commonwealth, from an action for nuisance or other injury, if any, done in the exercise of the powers hereinbefore given to the land or habitation of any party other than the party whose land is so taken or used for any of the purposes aforesaid."

Punishment of Offences (No. 14).—This Act, which is to cease to have effect upon the establishment of the High Court (s. 1), enacts that "the laws of each State respecting the arrest and custody of offenders, and the procedure for their summary conviction, or for their examination and commitment for trial on indictment or information, and for holding accused persons to bail, shall apply and be applied, so far as they are applicable, to persons who are charged with offences against the laws of the Commonwealth committed within that State, or whose trial for offences committed elsewhere may lawfully be held therein" (s. 2). Jurisdiction is given to the several Courts, and with certain restrictions to the magistrates, of each State in respect of such offences (s. 3), and an appeal lies as from a conviction, judgment, sentence, or order in respect of an offence against the laws of that State (s. 4).

Pacific Island Labourers (No. 16).—This is an Act to provide for the

regulation, restriction, and prohibition of the introduction of labourers from the Pacific Islands. By s. 2, unless the contrary intention appears, the expression "'Pacific Island labourers' includes all natives not of European extraction of any island except the islands of New Zealand situated in the Pacific Ocean beyond the Commonwealth as constituted at the commencement of this Act, but does not include (*a*) persons registered under s. 11 of the Queensland Act, 47 Vict., No. 12, on the ground of continuous residence in Queensland for a period of not less than five years before September 1st, 1884; or (*b*) persons employed as part of the crew of a ship; or (*c*) persons possessed of certificates of exemption under the Immigration Restriction Act, 1901." No Pacific Island labourer shall enter Australia on or after March 31st, 1904 (s. 3), nor before that date except under a licence (s. 4); and no licence shall be granted except as provided in this Act (s. 5). Nothing in the Act is to prevent the granting of licences as follows:—

(*a*) During 1902 to the number of not more than three-fourths of the number of such labourers who returned to their native islands in 1901;

(*b*) During 1903 to the number of not more than one-half of the number of such labourers who so returned in 1902 (s. 6).

No agreement for service under the Queensland Pacific Island Labourers Acts, 1880-1892, is to be made or remain in force after December 31st, 1906 (s. 7). Such a labourer may before that date be brought before a Court of summary jurisdiction, and the Court, if satisfied that he is not and has not during the preceding month been employed under an agreement, shall order him to be, and he shall accordingly be, deported from Australia. After that date the Minister may order a Pacific Island labourer found in Australia to be, and he shall accordingly be, deported therefrom (s. 8). Any person who, contrary to the Act, introduces or allows such a labourer to enter Australia, or employs such a labourer except under an agreement, shall be liable to a penalty not exceeding £100 (s. 9). "In any proceeding under this Act, a person alleged to be a Pacific Island labourer shall be deemed to be a Pacific Island labourer until the contrary is shown" (s. 10).

Immigration Restriction[1] (No. 17).—This Act is founded on the Immigration Restriction Act, 1897, of Natal,[2] which was reproduced in Western Australia by the Act No. 13 of 1897,[3] and was the basis of the New South Wales Act, No. 3 of 1898.[4] The prohibition of the present Act is more extensive even than that of Natal, and the following persons are by s. 3 declared to be "prohibited immigrants":—

"(*a*) Any person who when asked to do so by an officer fails to write

[1] This question was discussed in an article on "The Immigration of Coloured Races into British Colonies" in this Journal, vol. ii., 1897, p. 336.

[2] For the main provisions of the Natal Act, see *ibid.* 351, and vol. i., 1899, p. 126.

[3] See this Journal, vol. i., 1899, p. 108.

[4] *Ibid.* p. 496.

out at dictation and sign in the presence of the officer a passage of fifty words in length in a European language directed by the officer ;[1]

"(*b*) Any person likely in the opinion of the Minister or of an officer to become a charge upon the public or upon any public or charitable institution ;

"(*c*) Any idiot or insane person ;

"(*d*) Any person suffering from an infectious or contagious disease of a loathsome or dangerous character ;

"(*e*) Any person who has within three years been convicted of an offence, not being a mere political offence, and has been sentenced to imprisonment for one year or longer therefor, and has not received a pardon ;

"(*f*) Any prostitute or person living on the prostitution of others ;

"(*g*) Any person under a contract or agreement to perform manual labour within the Commonwealth : Provided that this paragraph shall not apply to workmen exempted by the Minister for special skill required in Australia or to persons under contract or agreement to serve as part of the crew of a vessel engaged in the coasting trade in Australian waters, if the rates of wages specified therein are not lower than the rates ruling in the Commonwealth."

Certain exceptions are made in favour of (*h*) persons possessed of a certificate of exemption ; (*i*) members of the King's regular land or sea forces ; (*j*) the master and crew of a public vessel of any Government, or (*k*) of any other vessel during her stay in port ; (*l*) persons duly accredited or sent on any special mission by any Government ; (*m*) the wife and children under the age of eighteen accompanying a husband or parent respectively who is not a prohibited immigrant (but these exceptions under paragraph (*m*) may be suspended by proclamation) ; and (*n*) any person who satisfies an officer that he has formerly been domiciled in the Commonwealth or any of the component States.

A certificate of exemption shall be for a specified period only, and may be cancelled by the Minister (s. 4). Any immigrant evading an officer, or entering the country where no officer is stationed, may at any future time, and *any* immigrant may within one year after entering, be asked to comply with the requirements of s. 3 (*a*), and if he fails to do so shall be deemed to be a prohibited immigrant offending against the Act (s. 5). Any immigrant prohibited within s. 3 (*a*) only may, if thought fit by an officer, be allowed to enter or remain within the Commonwealth on depositing £100, to be returned upon his obtaining within thirty days from the Minister a certificate

[1] This obviously provides a much severer test than the Natal Act, which merely required a person "to himself write out and sign, in the characters of any language of Europe, an application to the Colonial Secretary in the form set out in Schedule B of this Act."

of exemption, or departing; otherwise such deposit to be forfeited, and he to be treated as a prohibited immigrant (s. 6). Every prohibited immigrant is to be liable, upon summary conviction, to six months' imprisonment, and by order of the Minister to be deported; provided that the imprisonment shall cease for the purpose of deportation, or if the offender finds two approved sureties each in £50 for his leaving the Commonwealth within one month (s. 7). Any person not a British subject, who is convicted of any crime of violence against the person, shall be liable on the expiration of any term of imprisonment imposed "to be required to write out at dictation, and sign in the presence of an officer, a passage of fifty words in length in an European language directed by the officer, and if he fails to do so shall be deemed to be a prohibited immigrant, and shall be deported" (s. 8). The master, owners, and charterers of any vessel from which a prohibited immigrant lands contrary to the Act shall be jointly and severally liable to a penalty not exceeding £100 for each such immigrant; provided that, if he be of European race, no penalty shall be imposed if the master, etc., prove satisfactorily that he had no knowledge of the immigrant being landed contrary to the Act, and that he took all reasonable precautions to prevent it (s. 9). The vessel from which such immigrant has, in the opinion of the officer, entered the Commonwealth may be detained, and if default is made in payment of any penalty be seized, condemned, and sold; the proceeds to be applied in payment of the penalty and all costs incurred, and the balance paid to the persons previously entitled to the vessel (s. 10). No agreement made with persons without Australia to perform manual labour within Australia, whereby they become prohibited immigrants within s. 3 (*g*), shall have any effect (s. 11). Persons wilfully assisting another to contravene, or making or authorising any agreement the performance of which would be a contravention of the Act (s. 12), or who are wilfully instrumental in importing an idiot or insane person (s. 13), are mulcted in penalties. The Governor-General may make regulations for carrying out the Act, and for empowering officers to determine whether any person is a prohibited immigrant (s. 16). Annual returns are to be made showing the number of persons refused admission, and the grounds on which admission was refused; the number of those who passed the test prescribed by s. 3 (*a*), and of those admitted without being asked to pass the test; and the nationality of all such persons respectively, and whence they came (s. 17). The penalty where no higher one is imposed shall not exceed £50, and in default imprisonment not exceeding three months (s. 18). The Act shall not apply to the immigration of Pacific Island labourers under the provisions of the Queensland Acts, 1880-1892 (s. 19).

2. NEW SOUTH WALES.

[*Contributed by* E. L. DE HART, ESQ.]

Acts passed—Public, 74.

Consolidating Acts.—Of seventy-four Statutes which became law in 1901, forty-one were consolidating Acts, by which the total repeal of 130 Acts and one Ordinance was affected. Several of these consolidating Acts deal with the jurisdiction and procedure of the Courts. Thus, No. 4 consolidates the enactments relating to the District Courts, and No. 24 (the Equity Act) those relating to the equitable jurisdiction of the Supreme Court. Other consolidating Statutes deal with police offences (No. 5), interpleader (No. 7), the remedies of judgment creditors (No. 8), vagrancy (No. 13), the recovery and remission of fines and penalties (No. 16), the law of inheritance (No. 19), the law of defamation (No. 22), remedies on bills of exchange and other negotiable instruments (No. 42), prohibition and mandamus (No. 44) and married women's property (No. 45). Various Statutes relating to women and children are consolidated by the Infant Convicts' Adoption Act (No. 15), the Deserted Wives and Children Act (No. 17), the Destitute Children's Society Act (No. 36), the Reformatory and Industrial Schools Act (No. 38), and the State Children Relief Act (No. 61).

The Stock Act (No. 27) consolidates the Statutes relating to diseases in cattle and sheep, to the importation and exportation of stock, and to the registration of brands.

The Navigation Act (No. 60) contains 172 sections, by which the provisions of nine repealed Statutes are re-enacted.

Coroners Act (No. 54).—This Acts gives coroners and deputy coroners, by virtue of their office, the powers, and imposes on them the duties, of a justice of the peace. It also declares that all stipendiary and police magistrates shall have the powers and duties of a coroner in all parts of the State except the metropolitan district. Further, it amends the law relating to coroners' inquisitions.

Demise of the Crown Act (No. 57).—This Act provides that the holding of any office under the Crown shall not be affected, nor any fresh appointment thereto rendered necessary, by the demise of the Crown.

Public Works Committee Election Act (No. 58).—This Act makes certain provisions for the nomination and election of members of the Legislative Assembly and Legislative Council, to serve on the Parliamentary Standing Committee on Public Works.

Industrial Arbitration Act (No. 59).—This Act, though to a large extent modelled on the celebrated New Zealand Industrial Conciliation and Arbitration Act of 1894, differs materially from that Act and from the

New Zealand Act of 1900 (No. 57) which took its place, and also from the Industrial Conciliation and Arbitration Act of Western Australia (1900, No. 20). It consists of forty-seven sections, and is therefore much shorter than any of the Acts just mentioned, partly because it does not introduce the system of conciliation boards which has been established in New Zealand and Western Australia.

The purpose of the Act is stated to be to provide for the registration and incorporation of industrial unions, and the making and enforcing of industrial agreements; and to constitute a Court of Arbitration for the hearing and determination of industrial disputes, and matters referred to it.

An "industrial dispute," as defined in the Act, means a dispute in relation to "industrial matters" arising between an employer or industrial union of employers on the one part, and an industrial union of employees or a trade union or branch of a trade union on the other part, and includes any dispute arising out of an industrial agreement.

The definition of "industrial matters" is very wide. The term means "matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence." In particular, the following matters are included :—

(*a*) The wages or remuneration of employees in any industry;

(*b*) The hours of employment, sex, age, qualification or status of employees, and the terms of their employment;

(*c*) The employment of children or young persons, or of any person or any class of persons in any industry, or the dismissal of or refusal to employ any person or class of persons therein;

(*d*) Any established usage of any industry;

(*e*) The interpretation of an industrial agreement (s. 2).

An "industrial union" must, for the purposes of the Act, be registered and incorporated (s. 2). To be capable of registration an industrial union must be (1) a person or incorporated company, or an association of persons, companies, or persons and companies, which has for six months, on a monthly average, employed not less than fifty employees; (2) a trade union or association of trade unions; (3) a branch of a trade union of sufficient importance to be registered separately.

A registered industrial union becomes a body corporate, and may own, and deal with, real and personal property; but it cannot be sued, nor can its property be taken in execution, except by process under the Act, and in respect of obligations incurred in the exercise of powers conferred by the Act (s. 7).

An industrial union may make an agreement in writing relating to an industrial matter with another industrial union or with an employer, for a period not exceeding three years; and such agreement (called "an industrial agreement") will be binding during its currency on all the members of the

union, and have the same effect as an award of the Court of Arbitration. An industrial agreement will also remain in force after the period for which it was made, until determined by one month's notice by one of the parties (ss. 14, 15).

The Court of Arbitration created by the Act to determine industrial disputes and references under the Act is to consist of three members; one, the president, a judge of the Supreme Court appointed by the Governor; the other two, persons appointed by the Governor on the recommendation of the industrial unions of employers and employees respectively (ss. 16, 17). The manner in which delegates are to be chosen by the industrial unions to nominate judges is regulated by Schedule II.

The Court must determine all matters referred to it "according to equity and good conscience," and extensive powers of making rules for its procedure are given to it (s. 26). No matter may be referred to the Court, nor may any application be made to it, except by an industrial union or by a person affected or aggrieved by an order of the Court (s. 28).

The Court has power by its award (1) to fix a minimum rate of wages for the period during which the award is binding (to which an exception may be made in the case of employees who are unable to earn the minimum wage); (2) to direct that as between members of a trade union and other persons offering their labour at the same time the former are to be preferentially employed, "other things being equal" (s. 36).

With a view to the enforcement of its awards or orders, the Court may—

(1) Declare that any practice, regulation, custom, term of agreement, or condition of employment shall be a common rule of an industry;

(2) Order that such common rule shall within a prescribed area be binding on all employers and workmen engaged in such industry;

(3) Fix penalties for any breach of such common rule;

(4) Restrain any person from disobeying any order or award of the Court;

(5) Cancel the registration of an industrial union;

(6) Deprive any one of his membership of an industrial union for a specified period;

(7) Fix penalties for a breach of any term of an award or order, not exceeding £500 in the case of an industrial union, or £5 in that of an individual member thereof;

(8) Impose a fine not exceeding £500 on any person, not a member of an industrial union, for breach of an award or order by which he is bound.

S. 34 is intended to prevent strikes or lock-outs, and as it is somewhat loosely worded, it is advisable to cite the exact words of the section. They are as follows:—

Whoever (*a*) before a reasonable time has elapsed for a reference to the Court

of the matter in dispute; or (*b*) during the pendency of any proceedings in the Court in relation to an industrial dispute—

(1) Does any act or thing in the nature of a lock-out or strike; or suspends or discontinues employment or work in any industry; or

(2) Instigates to or aids in any of the above-mentioned acts;

shall be guilty of a misdemeanour, and upon conviction be liable to a fine not exceeding £1,000, or imprisonment not exceeding two months:

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any other good cause.

S. 35 makes an employer who dismisses any employee by reason merely that he is a member of an industrial union, or is entitled to the benefit of an award or agreement, liable to a maximum penalty of £20 for each employee so dismissed; and the onus of satisfying the Court that the employee was dismissed for some other reason is on the employer. No proceedings can, however, be begun under either s. 34 or s. 35 without leave of the Court.

By s. 40, the property of any industrial union is liable to answer any award or order by which it is bound. If the property of the union is insufficient, the members are liable to the extent of £10 each for the deficiency.

The Act will expire on the 30th June, 1908 (s. 47).

Forfeiture of Leases Act (No. 66).—The principal clause of this Act imposes restrictions on, and provides for relief against, the forfeiture of leases, in the exact terms of s. 14 of the Conveyancing Act, 1881.

Real Property and Conveyancing Amendment Act (No. 68).—This Act gives deputy registrars and any other persons appointed by the Governor the powers of the Registrar-General. It also gives a statutory declaration made before the Registrar-General or a deputy registrar the same effect as if made before a justice.

Blockholders Act (No. 69).—This Act provides that any Crown lands may be set apart for leasing to working men in blocks none of which may exceed ten acres. Each lease is to be for ninety-nine years at a rent (payable in advance) not exceeding 5 per cent. of the capital value of the land. One of the conditions of the lease must be that the lessee, either himself or by his wife or child, shall reside on the land at least nine months in each year (ss. 3, 6). A lessee, or assignee of a lease, must "gain his livelihood by his own labour" and be at least eighteen years old (s. 4). The Act creates a special fund to be called the "Blockholders' Loan Fund," from which advances may be made to blockholders to aid them in erecting permanent buildings on their blocks (ss. 9-15). Any sub-lease or encumbrance made while such an advance is not fully repaid is void (s. 17). A blockholder may have his lease endorsed with the words "The land herein comprised is held as a homestead block," the effect of which is that no subsequent encumbrance will be valid and that the land will not

be available for the payment of debts subsequently incurred by him, except in respect of rates and taxes.

Western Lands Act (No. 70).—This Act vests the management and control of the Crown lands in the Western Division in a board to be called the Western Lands Board. Existing leases may be extended and new leases granted until the 30th June, 1943. In the case of new leases, the rents are to be fixed for periods not exceeding ten years, and in that of extended leases, for the periods ending on the 30th June, 1930, and the 30th June, 1943. On each re-appraisement the rent may neither be increased nor decreased more than 25 per cent. The payment of rent may be postponed on the recommendation of the Board, with or without fine or interest. Tenant-right may be granted to lessees in certain improvements—viz., wells, tanks and dams, scrubbing, clearing noxious growths, ring-barking, and fencing.

Miners' Accident Relief (Amendment) Act (No. 71).—This Act extends the definition of "mine" in the Miners' Accident Relief Act, 1900, so as to include any works in the neighbourhood of a mine where ore, coal, or shale is treated by the owners of the mine. S. 4 of the principal Act instituted a committee for each mine, in or about which fifteen or more persons are employed, to administer the relief fund. S. 3 of this Act authorises the appointment of a joint committee for two or more mines, if desired by a majority of the workers in each of the mines. By s. 6 the contribution of the mine-owner to the relief fund is altered, and is fixed at one-half of the miners' contribution. S. 10 amends the scale of allowances from the fund, as fixed by the Schedule to the principal Act.

Friendly Societies (Further Amendment) Act (No. 73).—This Act modifies the conditions with which certain friendly societies existing at the commencement of the Friendly Societies Act, 1899, have to comply, in order to be registered.

Shearers' Accommodation Act (No. 74).—This Act makes provision for the proper accommodation of shearers in connection with sheds where six or more of them are employed, and for the inspection of the buildings provided for the purpose.

Mines' Inspection Act (No. 75).—This Act applies to all mines except coal and shale mines, and is intended to make better provision for their regulation and inspection. It consists of seven parts.

Part I. is preliminary.

Part II. relates to managers and engine-drivers. Every mine in which more than ten persons are employed below ground must be under the charge of a certified manager, and the machinery in use at any mine must be under the charge of a certified engine-driver. Further, it is an offence for any one who is deaf, whose sight is defective, or who is subject to fits, giddiness, or any other infirmity likely to interfere with his duties, to be in charge of the machinery, or for any one else knowingly to employ him in such charge. An enquiry may be held into the conduct of a manager or engine-driver who

is charged with incompetence or negligence, or has committed an offence under the Act; and his certificate may be cancelled.

Part III. relates to employees. Boys under fourteen and females may not be employed in or about a mine; males under eighteen may not be employed in caging or uncaging trucks or skips on cages, nor as landers or bracemen at any plat or landing-place. Further, no person may work in the face of the workings until he has had two years' experience of such work under skilled workmen, or unless accompanied by a skilled workman, or unless he has been employed for two years in or about the face of the workings. The owner or manager must keep a register of the boys employed about the mine. No person other than an owner or manager may be employed below ground more than eight hours in any day, unless there were special circumstances making it necessary for the safe and proper working of the mine; nor may a person in charge of machinery be employed more than eight hours consecutively, or more than eight hours in any twenty-four, except when changing shifts, or in cases of emergency.

Part IV. deals with the inspection of mines, the making and deposit of plans of the workings, notices of the opening and abandonment of mines, inspection of boilers, accidents, and lead poisoning.

Part V. relates to drainage.

Part VI. contains general rules which, so far as may reasonably be practicable, are to be observed in every mine.

Part VII. deals with legal proceedings under the Act.

3. QUEENSLAND.

[*Contributed by* W. F. Craies, Esq.]

Acts passed—Public, 27.

General Observations.—Owing to the creation of the Commonwealth of Australia the legislation of the constituent States falls within narrower limits than that of the separate Colonies.

The most interesting experiment in Queensland is the creation of a Land Bank (No. 24).

A large proportion of the Acts relate to agricultural and pastoral matters.

Appropriation.—1 Ed. VII., Nos. 1, 6, 8, and 15, are Appropriation Acts.

Supreme Court.—1 Ed. VII., No. 2, reduces the salary of the chief justice in the case of future appointments to £2,500.[1]

Civil Service.—1 Ed. VII., No. 17, abolishes the Salaried Public Service Board created by the Public Service Act of 1896,[2] and vests its powers, duties and authority in the Executive Council of the State.

[1] The present chief justice under an Act of 1892 (56 Vict., No. 32), receives a salary of £3,500.

[2] See Journal, O.S., vol. ii. p. 174.

Customs and Excise.—1 Ed. VII., No. 13, empowers the Governor by Order in Council to appoint officers or classes of officers to perform or exercise certain duties, obligations, rights or powers imposed or conferred on officers of customs or excise, but outside their ordinary functions. The Act is rendered necessary by the transfer to the Commonwealth of the control of customs and excise.

Colonial Stock.—1 Ed. VII., No. 5, authorises the State Treasurer to issue his warrant for payment out of the Consolidated Revenue Fund of the amount of any judgment, decree, rule, or order, under which the registrar of Queensland Stock[1] is declared liable under the Imperial Colonial Stock Act, 1877,[2] in any legal proceedings in the United Kingdom in relation to the register of Queensland Inscribed Stock, or any entry in or omission from that register, or any right or title to an interest in any such stock, or any dividend thereon.[3]

Finance.—*Stamps.* 1 Ed. VII., No. 3, imposes until September 30th, 1903, a graduated scale of stamp duty on receipts for the payment of money: 1*d.* on receipts of £1 and upwards and less than £2; 2*d.* on receipts of £2 and less than £50; 3*d.* on receipts for £50 and upwards and under £100; and 6*d.* on receipts of £100 and upwards, for every £100 or fraction of £100. A penalty is imposed for splitting up the amounts to evade duty.

Treasury Bills.—1 Ed. VII., No. 4, authorises the raising in aid of the revenue of a sum not exceeding £530,000 by Treasury Bills secured on the consolidated Revenue Fund, bearing interest at 4 per cent., and made payable not later than January 1st, 1912.

1 Ed. VII., No. 7, provides for special sales of Crown land the proceeds whereof are after June 30th, 1903, to be carried to a special Treasury Bills Account and applied in keeping down the interest and discharging the principal of the bills issued under Act No. 4, and in discharging the obligations in respect of which the bills were authorised to be issued.

Land Bank.—1 Ed. VII., No. 24, authorises the establishment of a land bank for the purpose of promoting the occupation, cultivation, and improvement of agricultural lands—*i.e.* (1) lands held in fee simple and used or about to be used for agricultural or dairying purposes; (2) lands held under the Crown Lands Acts as agricultural farms, agricultural homesteads, grazing farms, grazing homesteads, or unconditional selections; (3) mining homestead leases; (4) lands by order of the Governor in Council declared to be agricultural for the purposes of the Act. The bank is to be established and controlled by the Governor in Council, with trustees,

[1] Appointed under the Queensland Stock Inscription Act, 1883, 47 Vict., No. 1.

[2] 40 & 41 Vict., c. 59.

[3] This Act was probably passed in consequence of some difficulty arising with respect to litigation in England.

deputy banker, and manager. Its funds are to be derived (*a*) from a debenture issue secured on the consolidated revenue of the State not exceeding £250,000 bearing interest not exceeding 4 per cent., and redeemable not earlier than January 1st, 1926, nor later than January 1st, 1931; (*b*) such moneys as may be appropriated by Parliament.

The Bank from its funds may make advances to owners or occupiers of agricultural lands for making the prescribed improvements, not exceeding £800, nor thirteen-twentieths of the fair estimated value of the improvements when made. The advances are to be secured by mortgage with absolute priority over all other claims, and may not be made on land subject to any mortgages or charges not subject to the Act.

The details as to the mode of securing advances, as to prescribing and valuing improvements, and the forms of security, are left to be settled by Regulations in Council (s. 26).

Life Assurance.—1 Ed. VII., No. 20, is an Act of fifty sections for regulating and controlling life assurance. To a large extent it is a transcript of the main provisions of the British Life Assurance Companies Acts.[1] But it also contains a number of additional clauses for the protection of the assured. A company having its head office outside Queensland may not carry on business there until registered. Policies effected without complying with this enactment are binding an the company; but it cannot recover any premiums. Policies on the Queensland register of a company are made subject to the laws of the State. Life policies on own life are exempted from execution, and from the insolvency laws: and assignment of policies must be in a statutory form, and to be valid must be registered. Mortgages and trusts of policies are not to be noticed by the company, and are effected by a separate instrument (a defeasance or declaration of trust).

Minors of sixteen or over are allowed to effect life policies on their own lives. Policies may not be forfeited for mere understatement of age; and provision is made for adjusting the premiums and the sum payable where the age has been overstated or understated. And policies may not be forfeited for non-payment of premiums unless the arrears equal or exceed the surrender value. The Act also contains a provision similar to that of the Imperial Act of 1896,[2] restricting the forfeiture of industrial policies; but fixes the limit for such policies at £100, and not £20 as in the United Kingdom.

Pastoral Leases.—1 Ed. VII., No. 20, deals with the grant of new leases of Crown lands formerly comprised in pastoral leases. The scheme is to classify the lands on or before the expiry of the lease, and to re-let pastoral lease lands not wanted by "selectors" nor likely to be required for settlement or township reserves.

Agricultural Homesteads.—1 Ed. VII., No. 12, permits the proclamation

[1] 33 & 34 Vict., c. 61; 35 & 36 Vict., c. 41; 59 Vict., c. 8.
[2] 54 & 60 Vict., c. 26.

of unoccupied country lands as open for selection as agricultural homesteads, by members of the body of settlers specified in the proclamation, and the setting apart of sites for agricultural townships. The settlers may acquire the freehold of the homestead and town lot on showing that ten shillings an acre has been expended on substantial and permanent improvements.

Agricultural Lands' Purchase.—1 Ed. VII., No. 9, amends prior Acts of 1894[1] to 1897[2] as to terms on which purchase of land for agricultural settlement may be effected, and includes settlement for dairying purposes within the scope of the Acts.

1 Ed. VII., No. 23, provides for the purchase by the Crown of a large quantity of specified land with a view to re-sale to agricultural settlers under the Acts last referred to.

Meat and Dairy Produce.—1 Ed. VII., No. 22, makes certain minor amendments in Statutes passed in 1893 and 1895, to encourage the production of meat and dairy produce.[3]

Slaughtering.—1 Ed. VII., No. 14, amends the Slaughtering Act of 1898.[4]

Marsupials.—1 Ed. VII., No. 18, continues and amends the Marsupial Boards Act of 1897,[5] extending it to dingoes (wild dogs) and inserting a new definition of the marsupial "scalp" to be produced as evidence of destruction.

Prickly Pear.—1 Ed. VII., No. 11, is intended to facilitate the eradication of prickly pear from Crown lands. The scheme of the Act is to grant leases for seven years, at a peppercorn rent, of lands infested with prickly pear. The lessee receives a bonus on condition that he rids the land of prickly pear, and at the end of the lease, if its terms have been complied with, may obtain a freehold grant of the land.

Cruelty to Animals.—1 Ed. VII., No. 26, repeals the New South Wales Act, 14 Vict., No. 40, formerly in force in the State, and makes new provisions for the protection of animals, which do not differ materially in substance from those in force in the United Kingdom,[6] but extend to all animals whether in a natural or domestic state, with certain specified exceptions as to vermin, and as to the taking or capture of wild animals. But persons in public places are permitted to kill dogs which in any manner cause danger or injury, or attack passengers whether travelling on foot, or on a carriage or cycle.

Local Government.—Interest at the rate of 5 per cent. is made payable on all rates unpaid for not less than two clear months on or after January 1st, 1902. Mortgagees are empowered to add to their securities, rates, and interest on unpaid rates, paid by them. Provision is made for the sale of land the rates whereon have remained unpaid for seven years or longer.

[1] 58 Vict., No. 27. [2] 61 Vict., No. 13.
[3] See Journal, O.S., 1896, p. 176. [4] 62 Vict., No. 6, Journal, N.S., vol. ii. p. 482.
[5] See Journal, O.S., vol. i. p. 51 : N.S., vol. i. p. 105.
[6] 12 & 13 Vict., c. 92 : 17 & 18 Vict., c. 60 : 63 & 64 Vict., c. 33.

Power is given to extend the time for repayments of loans made by the Crown to municipalities under the Local Water Loan Acts, 1880-1899, and to suspend the payment of arrears.

A clause is inserted legalising expenditure by local bodies in connection with the inauguration of the Commonwealth, and the Royal visit to Australia. Authority is given to municipalities to form roads in a special manner on "uneven, broken or sidelong" ground, and to deal with noxious weeds and plants.

Mines.—1 Ed. VII., No. 10, amends the Mining Act of 1898 [1] by a series of additions and alterations which are to be printed as part of the Principal Act in all future copies. The chief changes are the inclusion of a definition of mining drives, and of a clause as to leases for mining tramways, and the rights of mining under lands traversed by such tramways. Moreover, mineral leases hereafter granted must contain a covenant to employ at least one man for every ten acres or fraction of ten acres leased, unless a total or partial exemption is allowed.

Three of the Public Acts are of a local or special character—

1 Ed. VII., No. 16, authorises the construction and maintenance of a railway from Port Norman on the Gulf of Carpentaria *viâ* Normanton to Cloncurry, of about 260 miles in length.

1 Ed. VII., No. 19, authorises the Municipal Council of South Brisbane to raise £100,000 for corporation purposes by issuing debentures bearing interest at not more than 4 per cent.

1 Ed. VII., No. 21, amends the Church of England Act of 1895, by declaring the powers of Synods of the Church constituted corporations under that Act, to deal with lands vested in the Synod on trust for the Church of England only.

4. SOUTH AUSTRALIA.[2]

[*Contributed by* A. Buchanan, Esq.]

Acts passed—General, 25; Private, 1.

Constitution.—The Constitution Act Amendment Act, 1901 (No. 779), dissolves both Houses of Parliament on March 31st, 1902 (s. 2), reduces the membership of the Legislative Council to eighteen (s. 5), of whom ten shall form a quorum (s. 15), and the membership of the House of Assembly to forty-two (s. 6), of whom twenty shall form a quorum (s. 16), and reduces the number of ministers to four, whose aggregate salaries shall not exceed £4,000 (s. 22), divides the State into four councils (s. 7) and twelve

[1] 62 Vict., No. 24. Journal, N.S., vol. ii. p. 481.

[2] The Session, 1 Ed. VII., here reviewed, commenced July 18th, 1901, and ended December 21st, 1901.

assembly districts (s. 8), every assembly district being an electoral division of the council district in which it is situated (s. 10).

Subject to the provisions for dissolution, members of the Legislative Council are elected for a term of not less than six years, except that one half the members elected at the first elections shall not occupy their seats for more than three years. In the case of a casual vacancy the member elected to fill it is to hold office only for the unexpired term of the member whose seat became vacated (s. 11). Subject to the above minimum term of service one half of the members for each council district shall retire whenever the House of Assembly shall be dissolved or shall expire by effluxion of time, and the election to supply the vacancies so created shall take place on the day of the general election of the House of Assembly (s. 12). The member of the Legislative Council to retire shall be he whose length of service since last election is the greatest, or if length of service be equal then the member who secured least votes at the election shall retire first, or if the votes were equal the order of retirement is to be determined by lot (s. 13).

Whenever the same, or a substantially similar, bill shall have been passed by the House of Assembly in two successive Parliaments, and shall have been rejected, or failed to become law by reason of amendments made therein by the Legislative Council, it will be lawful but not obligatory upon the Governor to dissolve both Houses, or he may issue writs for the election of one, or not more than two members, for each council district, provided that no vacancies in the Council shall be filled up whilst the total number of members shall be eighteen or more (s. 24).

Electoral Code.—Act No. 759 of 1901 extends the provisions of the Electoral Code as to absent voters to all persons in quarantine in the State at the time of any election, irrespective of distance from any polling booth.

Confirmation of Appointments.—No. 756 confirms offices and appointments under the Crown notwithstanding the demise of her late Majesty, and provides that the oaths of allegiance and office taken to her late Majesty, whereby such offices and appointments were held, shall be deemed to have been taken to his present Majesty (s. 2), and ratifies and confirms all acts, deeds, matters, and things, in the meantime otherwise lawfully executed and done (s. 3).

Colonial Stocks (No. 764).—The British Investors in South Australian Government Securities Act, 1901, makes the provisions in the interest of British investors, required by the Colonial Stocks Act, 1900, as the condition of allowing trustees in the United Kingdom to make investments in South Australian Government Securities—viz., that judgments obtained in the United Kingdom against the State of South Australia in respect of South Australian Government Securities, and also payments required under the Colonial Stock Act, 1877, shall be satisfied by the Treasurer of the State, or his financial agent in London, out of the general revenue of the State without any further appropriation than the Act (s. 3).

State Bank (No. 767).—The State Advance Further Amendment Act, 1901, provides that all valuations shall be made by appraisers appointed by the Bank (s. 3) who need not be licensed under the Appraisers Act, No. 10 of 1843, where the advance is under £100 (s. 4); that the holders of ordinary State Bank Mortgage Bonds may exchange same for inscribed Mortgage Bonds or *vice versâ* (ss. 5 and 6), and exempts retrospectively the State Bank from income tax, and its Mortgage Bonds from stamp duty (s. 8).

Crown Lands (No. 777).—The Crown Lands, Closed Settlement and Blockholders' Loans Amendment Act, 1901, provides that Crown leases for pastoral or agricultural purposes or both, which in the opinion of the Commissioner of Crown Lands may not be required for subdivision, may until December 31st, 1902, be exchanged for perpetual leases (s. 3); lessees may until the same date apply for, and be granted reductions of rent (s. 4); lands repurchased for closed settlement shall be cut up into blocks not exceeding £2,000, or in cases where the improvements are disproportionately valuable, not exceeding £4,000 unimproved value (s. 7). Lessees under the Closed Settlement Act, 1897, must not be holders of land exceeding £2,000 unimproved value, including the lands held under that Act (s. 8); and advances to blockholders are to be repaid in twenty equal annual instalments (s. 10).

Pastoral Lands (No. 770).—The Pastoral Amendment Act, 1901, removes the restrictions on minimum rent to be fixed for pastoral lands (s. 2); authorises the Pastoral Board until December 31st, 1902, to reduce rents on application by the lessees (s. 3); prohibits the resumption of pastoral leased lands for pastoral purposes (s. 6); and reduces the rate of interest to be paid on the purchase money and improvements from £5 to £4 per cent. (s. 14).

Village Settlements (No. 768).—The Village Settlements Act, 1901, repeals Part VII. of the Crown Lands Amendment Act, 1893, under which village settlements were established upon a communistic basis (s. 2), and provides the machinery for effecting the change to an individualistic basis.

Existing incorporated associations are continued (s. 5), and of their lands the horticultural and agricultural or commonage lands, and lands used for irrigation works are to be reserved (s. 7), and are to, in each case, constitute the district of the association (s. 9). Horticultural lands are to be sub-divided into blocks of about ten acres of as nearly equal unimproved value as practicable (s. 8). Valuations are to be made in each district (s. 10) by arbitration in case of disagreement (s. 12) of the irrigation works, and of the improvements on each horticultural block, and on commonage lands, and of the personal estate of the association (s. 10). The total of the valuation is to be deemed the total indebtedness of the association to the Commissioner of Crown Lands, and any excess of indebtedness shall be

written of (s. 15), and provided for by the Treasurer in the estimates in seven equal yearly instalments (s. 16). When the valuation shall have been determined, the reserved lands are to revert to the Crown (s. 17, sub-s. 1), and the Commissioner is to lease the horticultural blocks on perpetual lease to individual members of the association (sub-s. 2), or to others who, by acquiring such leases, become members of the association (sub-s. 3). Each lessee is to hold for his individual use and enjoyment not more than two blocks (sub-s. 4); premiums obtained on the leasing of the blocks are to be the property of the association (sub-s. 5), and the commonage lands are to be leased on perpetual lease to, and held by, the association (sub-s. 6). The value of the improvements on each horticultural block, with interest thereon at $4\frac{1}{2}$ per cent. together termed "member's debt," is made a first charge on the block, payable by the lessee for the time being in forty-two annual instalments of £5 14*s.* 6*d.* per cent., commencing January 1st, 1904, but with liberty to pay off at any time (s. 20). The value of the irrigation works and of the improvements on the commonage lands with interest at $4\frac{1}{2}$ per cent., together termed the "association debt," is made a first charge on all the property of the association, payable in similar annual instalments, and on default recoverable from the then members of the association in equal proportions (s. 21). Leases are to be assignable with the consent of the Commissioner (s. 22). The irrigation works are vested in the association (s. 25), and the water from time to time in such works is vested in the association to be used for the purposes of the Act (s. 26), and the control and management is vested in the association (s. 27, sub-s. 1). The works are to be maintained to the satisfaction of the Commissioner (sub-s. 2), and the irrigation expenses are to be borne by members equally (sub-s. 3). The affairs of the association are to be managed by a Board to be appointed in the manner prescribed (s. 28). So long as the charges for the "members'" and "associations'" debts subsist, the Commissioner is to have power (*a*) to expel members after notice, but subject to an appeal to arbitration (s. 29, sub-s. 1); (*b*) to control the association expenditure (sub-s. 2); (*c*) to retire trustees (sub-s. 3); (*d*) to require an increase of membership, and on default to cancel the association's leases (sub-s. 4); (*e*) to make rules (sub-s. 5); and (*f*) to assume the control and management of the irrigation works (s. 27). Any past credits of members with the association are cancelled (s. 31). No further advances are to be made (s. 32). An inspector of village settlements may be appointed to assist in the execution of the Act (s. 34). The commonage lands are to be worked by the association for the common good, on the principles of co-operation and equitable division (s. 35, sub-s. 1). Members are to give the association thirty-six days' labour during each six months or a cash equivalent, and to receive in the books of the association credit therefor (sub-s. 2). The association is to make up yearly accounts of expenditure and income, and after deducting one-fourth of any surplus for a sinking fund for renewal of

plant, the net balance may be divided amongst members in proportion to their respective credits (s. 36).

Mining on Private Property (No. 772).—The Mining on Private Property Amendment Act, 1901, empowers the Minister of Mines to forfeit any lease under Part III. of the Principal Act (the Mining on Private Property Act, 1888), if the working conditions are not complied with during at least eight months in each year (s. 2).

Seed Wheat (No. 766).—The Seed Wheat Further Amendment Act, 1901, authorises in cases of hardship a further extension by twelve months of the time for repayment of seed wheat loans (s. 2), and in cases of extreme hardship the remission by the Treasurer wholly or in part of any debt due for seed wheat under the Seed Wheat Acts (s. 3).

Vaccination.—Act No. 761 of 1901 exempts a parent or other person from any penalty under s. 21 of the Vaccination Act, 1882, if within six months of the birth of the child he makes a declaration in the prescribed form that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers such declaration to the vaccination officer (s. 1). On an outbreak of small-pox, the Governor may suspend the foregoing exemption altogether, or locally, and order the vaccination or re-vaccination of contacts within a specified time (s. 2). The operation of the Act is limited to June 30th, 1906 (s. 3).

Early Closing (No 778).—The Early Closing Amendment Act, 1901, extends the definition of "shopkeeper" in the Principal Act to include the "manager of any shop" (s. 2); exempts milkmen from the provisions of the Act (s. 11); modifies the stringency of the Principal Act by allowing shops to be kept open on ordinary week nights until nine o'clock with the assistance of the shopkeeper and one member of his family (s. 5), and limits the employment in a shop of young persons under sixteen years of age to fifty-two hours in any one week (s. 14).

Licensed Victuallers (No. 773).—The Licensed Victuallers Further Amendment Act, 1901, provides for the granting to brewers only of "Brewers' Colonial Ale Licences" (s. 2); authorising the sale of not less than two gallons of one kind of spirits, or one dozen reputed quart bottles, or two dozen reputed quart bottles, or two dozen reputed pint bottles of fermented liquor to be taken away at one time by one person, and not consumed on the premises (s. 4), and makes the holder of such a licence incapable of holding a "storekeeper's licence," or "wine licence" (s. 5).

Pearls and Mother-of-Pearl Shell (No. 763).—The Northern Territory Pearl Sale and Export Regulation Act, 1901, which applies only to the Northern Territory (s. 10), provides for the granting of annual licences to deal in pearls and mother-of-pearl shells to persons, not being Asiatic aliens (s. 3), of good character on payment of £10 (s. 2); prohibits the purchase of pearls or shells by unlicensed persons (s. 4) under penalty of a fine not exceeding £100, or imprisonment not exceeding six months (s. 5).

Licensed persons must keep a register of purchases and produce the same to an officer of customs when required (s. 6). Pearls and shells are to be exported only at specified ports, and forty-eight hours before exportation a return must be furnished, and if required the pearls and shells produced to such officer for examination (s. 7).

Port Adelaide Outer Harbour (No. 765).—The Harbour and Railway Act, 1901, authorises the construction of a harbour in Lights Passage at the entrance to the Port River (s. 4), and the extension of the railway from Largs Bay (s. 8). The proposed harbour is to have a depth of thirty-three feet at low water, with a width of 1000 feet, and the approach is to be 400 feet wide (s. 4). Before calling for tenders a report is to be obtained from three independent experts, affirming that the proposed scheme is safe, suitable, and preferable to the construction of an outer harbour at Marino, and that it can be effectively carried out for £500,000 (s. 5). This report has been obtained since the close of the session.

Local Government.—No. 762 validates the expenditure up to specified limits by municipal corporations and district councils, in celebrating the visit of their Royal Highnesses the Duke and Duchess of Cornwall and York to South Australia.

5. TASMANIA.

[*Contributed by* J. W. Fearnsides, Esq.]

Acts passed—Public, 42; Private, 15.

Presbyterian Church of Australia Act.—No. 2 has for object the constituting of one Presbyterian Church for the whole of Australia, in place of the five which have hitherto existed, and is interesting as showing the consolidating effect produced by the Commonwealth Act upon a religious body.

A basis of union, and articles of agreement, appear as a Schedule to the Act, and are very full and precise. The former deals with doctrine, the latter with government which is to be by a Supreme Court of the Church, to be called the General Assembly of the Presbyterian Church of Australia. One uniform system of theological training and one standard of qualification for the Ministry are prescribed.

Investment in Government Securities Act.—No. 4 is passed agreeably to the provisions of the Colonial Stock Act, 1900 (Imperial Parliament), and is to facilitate the investment of British trust funds in Tasmanian Government securities. S. 5, by which it is stated that any Act of the Tasmanian Parliament which in the opinion of the Imperial Government injuriously affects the rights or remedies of the holders of Tasmanian Government securities, or alters the terms of the contract under which

such securities were created or issued may properly be disallowed by his Majesty, is rather curious from the standpoint of constitutional law. It emphasises the desire of the Colony to maintain its financial credit by having and continuing to have its debt included in investments authorised for employment of British trust funds. A similarly worded proviso appeared in a New Zealand Act of the previous year.

State Savings Bank.—No. 9 provides for the continuance of the Post Office Savings Bank of the Colony of Tasmania as a Savings Bank of the State of Tasmania, this being rendered necessary because the Government of the Australian Commonwealth has assumed the control of the Post Office in Tasmania under the Commonwealth Act.

Railways Clauses Consolidation Act, 1901.—No. 14 is a consolidating Act of 100 sections. It is divided into twelve parts, and provides for railway construction, maintenance, and working; for the acquisition of land and materials; for compensation to persons whose interests are affected by the exercise of powers conferred by the Act; for levy of rates and tolls; for purchase by the State, and for forfeiture to the State. This forfeiture may take place if the promoters have failed for one month to work the traffic on the railway, pursuant to regulations duly made; are insolvent or neglect to meet their lawful obligations to servants employed upon the railway, or to any creditor; have failed to render the railway safe for traffic within a reasonable time after traffic has been interdicted as unsafe; or are guilty of any breach of the provisions of the Act without reasonable cause, after reasonable notice has been given to put an end to such breach.

All members of Parliament of Tasmania are entitled to travel free over any railway in the State.

Audit Act.—No. 15 is to consolidate and amend the law relating to the audit of the public and other accounts.

It provides for the appointment of a public auditor, who shall hold office during good behaviour, and shall not be removed save upon an Address of both Houses of the State Parliament.

It prescribes the duties of the auditor and his relations with the State Treasurer.

The printed estimates of revenue transmitted to Parliament, and estimates of expenditure, as passed by the Parliament in each year, are to form the basis of the system of account. General Regulations are appended to the Act in the form of a Schedule for the preparation, keeping and rendering of the public accounts.

Recovery of Possession of Tenements (No. 20).—A tenant of any premises for any term not exceeding seven years at a yearly rent not exceeding £40, who holds over after his tenancy has been duly terminated, may be summoned before justices, who may order possession to be given up by the tenant to the landlord, and may issue a warrant addressed to all

constables in the State commanding them to enter into the premises and give possession to the landlord, or his agent.

Exported Products Act.—No. 21 imposes regulations for certain products exported from the State, and for this purpose empowers the Governor to appoint inspectors whose duty it is to see that all such products are properly branded. An inspector has power to forbid export of any product. The consignor may obtain a certificate from an inspector that a product to be exported is of good quality and free from disease.

Contagious Diseases (Cattle) (No. 22).—An Amending Act which provides for the separation of diseased animals; for declaration of a place as infected; for the slaughter of diseased animals; and for compensation to be paid to the owner in the latter case.

To provide a fund for the purpose of compensation, a sum not exceeding threepence a head shall be paid for all cattle above six months old, but an owner of less than four head is exempt.

Acquisition of Land for Settlement.—No. 23 creates a board of Land Purchase Commissioners, who, together with the responsible minister of the Crown for the time being administering the Act, are the machinery for working it. The land to be acquired is private land not within the boundaries of any town.

The land acquired is to be disposed of under perpetual lease, save as regards such portions as may be necessary for public purposes, and certain cases where land may be sold in fee simple for dairy factories. Provisions regulating the leasing are very full, and include allotments for workers' homes.

Appropriation Acts.—Nos. 32, 33 and 50.

Police.—No. 42 among other things prohibits persons under thirteen years of age from being in possession of firearms.

Electoral Act.—No. 57 consolidates and amends the law regulating the election of members of Parliament of Tasmania. It divides the State into electoral districts; empowers the Governor to appoint polling places, a chief electoral officer and returning officers; provides for the preparation and revision of electoral rolls; sets out the mode of conducting elections, among which provision is made enabling a voter who is absent more than five miles from the place where he ought to vote on the polling day, to vote by post; it confines election expenses of candidates to certain stated matters, and with regard to them to a maximum of £50 for each candidate (other than personal expenses); deals with bribery and corruption, also setting out a list of electoral offences with the appropriate fines and punishments; settles the procedure in the case of disputed elections, and their mode of trial.

6. VICTORIA.

[*Contributed by* H. E. Gurner, Esq.]

Acts passed—59 (Nos. 1723 to 1781 inclusive).

Parliamentary Membership (No. 1723).—The first Act passed in this session, entitled "The Constitution Act Amendment Act, 1900," provides by s. 2 that no member of the Parliament of the Commonwealth of Australia shall at the same time be qualified for nomination or election as a member of either House of the Victorian Parliament. By s. 3 it is provided that if a member of either House of the Victorian Parliament be elected to either House of the Commonwealth Parliament, his seat in either of the former Houses shall be vacant.

Salary of Governor (No. 1725).—This Act provides that the salary of future Governors of Victoria shall be £5,000 per annum, in lieu of £7,000.

Husband and Wife (No. 1737).—This Act, entitled "The Marriage Act, 1901," which is to be read and construed as one with Part IV. of the Marriage Act, 1890, gives power by s. 2 to the justices, when the defendant does not find a surety that he will comply with an order for the maintenance of his wife and children, to commit him to gaol with or without hard labour for any term not exceeding twelve months; and it also provides, notwithstanding such committal for a specified term, that the defendant may obtain his release from custody on finding a sufficient surety as aforesaid.

By s. 3, when a husband without reasonable cause deserts his wife or his legitimate children under fourteen years of age, and leaves her or them without support, and goes to reside either permanently or temporarily beyond Victoria, he is liable to be imprisoned with hard labour for a term not exceeding one year.

By s. 4, if he refuses or neglects to comply with a maintenance order for the maintenance of his wife and children, whether illegitimate or not, made under s. 43 of the Marriage Act, 1890, or goes, or attempts or makes preparation to go, beyond Victoria, he is liable to the punishment provided in the last section.

By s. 5, any person deserting wife or children in any other British possession or in the United Kingdom may be dealt with in Victoria by the administration of a similar punishment and under the Fugitive Offenders Act, 1881.[1]

By s. 6, it is provided that if any illegitimate child be committed to the care of the Department for Neglected Children, such committal shall be *prima facie* evidence of its want of means of support.

Wild Dogs (No. 1741).—The Wild Dogs Act, 1901 (s. 2), defines the wild dog or dingo. S. 3 gives power to a municipality to give twenty shillings

[1] 44 & 45 Vict., c. 69, Imperial Statute.

as a bonus for the destruction of every wild dog, but the council of that municipality is not bound to pay more than £200 per annum for that purpose. By s. 4 the claimant for the bonus must hand the skin to the proper authority, and make a declaration that he did not breed the dog for the purpose of obtaining the reward. By the other sections of the Act the Governor in Council shall pay half the reward, and also municipalities are to be at liberty to pay larger rewards, but the State is to be limited to ten shillings per head. Dogs under six months old are to be paid for at half rates. The Act is to expire on July 31st, 1904.

Land Act (No. 1749).—The Land Act of 1901 is a long Act of 427 sections, being composed of eight parts and many sub-divisions. Beginning with the Land Act of 1890, there have been eleven Acts dealing with this question, and this Act now repeals the whole of them, re-enacting parts of sections, repealing others, and adding fresh ones. There is no continuity in these Acts. They are extremely complicated, and no useful purpose would seem to be served by setting out their provisions *in extenso*.

Old-Age Pensions (No. 1751).—This Act, entitled "The Old-Age Pensions Act, 1901," is one of thirty-seven sections and came into force on December 7th, 1901. By s. 5, a pension, being for the personal support of the pensioner, shall, subject to the provisions of the Act, be absolutely inalienable, whether by way of or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever.

S. 6 provides that the following persons whilst in Victoria shall be qualified to receive a pension :—

(*a*) Every one of sixty-five years of age ;

(*b*) Every person who is in permanent ill-health caused by having been engaged in mining or any prescribed dangerous or unhealthy occupation.

No woman having married an alien shall thereby become disqualified to receive a pension.

By s. 7 the following persons are disqualified from receiving a pension :—

(*a*) Aliens ; or

(*b*) Naturalised subjects, unless they have been naturalised for six months preceding their pension claims ; or

(*c*) Chinese or Asiatics, whether naturalised or not ;

(*d*) Aboriginal natives of Australia or New Zealand.

By s. 8 no person shall receive a pension unless he fulfils the following requirements—viz. :—

(*a*) That he is residing in Victoria ; and also

(*b*) That on such date he has so resided, whether continuously or not, for at least twenty years ; and also

(*c*) That he has not been absent, whether continuously or not, for more than five years during the time from which the said twenty years commenced to run ; and also

(*d*) That he has resided in Victoria continuously for not less than five years immediately preceding such date; and also

(*e*) That during the period of two years immediately preceding such date he has not been convicted three times or upwards of drunkenness; and also

(*f*) That during the five years immediately preceding such date he has not, for any offence or offences, been imprisoned for any period or periods amounting in the whole to six months or upwards; and also

(*g*) That during the period of twenty years before he has not been imprisoned for any period or periods amounting in the whole to three years or upwards; and also

(*h*) That if a husband, he has not for twelve months or upwards during five years immediately preceding such date without just cause deserted his wife or failed to provide her with maintenance or neglected to maintain his children under fourteen; or if a wife, during five years past she has not for twelve months deserted her husband or children under fourteen; and also

(*i*) That his average weekly income does not amount to eight shillings or upwards; and also

(*j*) That the capital value of his property, either in or out of Victoria, does not amount to £160 and upwards; and also

(*k*) That he has not deprived himself of property to qualify for and obtain a pension; and also

(*l*) That he has made reasonable efforts to provide for himself or has brought up a family in decency or comfort; and also

(*m*) That the husband, father, mother, or the children of the claimant, or any or all of them, are unable to provide for and maintain the claimant; and also

(*n*) That he is unable to maintain himself; and also

(*o*) That he has not within twelve months been refused a pension certificate except for the reason that he was disqualified by age, or for reasons which were not in existence at the time of the further application.

S. 9 deals with disqualifications arising from short absences from the Colony.

S. 10, sub-s. 1, limits the pension to eight shillings per week, but the Commissioner may give any less sum he decides to be reasonable and sufficient. By sub-s. 2 of this section, when the claimant, although sixty-five years of age, appears to be physically capable of earning or partly earning his living, the pension claim may be refused or a lesser sum than the eight shillings granted.

By s. 11 the pension shall be at such rate as will make the total income of the claimant from all sources eight shillings per week. Provided, however,

that to the extent of two shillings per week received by the claimant as wages in respect of personal labour, such sum shall not be taken into account in the computation of his income from all sources, but such pension shall be diminished by sixpence for every complete £10 capital value of all property owned by claimant (not including furniture and personal effects to the value of £25) which does not return income.

S. 12 provides for the method of assessment of the value of accumulated property. By sub-s. (*d*) the net capital value of husband's and wife's accumulated property shall be deemed to be not less than half the total net capital value of the accumulated property of both after allowing one deduction of £50. This provision does not apply when husband and wife are living apart under decree or order or deed of separation.

By s. 13, in the computation of income, sub-s. (*a*) provides that when any person receives board or lodging the actual value of such, not exceeding five shillings per week, shall be included in such computation; (*b*) in the case of husband and wife, the income of each shall be deemed to be not less than half the total income of both. This does not apply when legally separated.

SS. 14 and 15 provide for the making of claims, and the manner in which the *bona fides* of them may be investigated. Confidential reports are to be furnished on demand by banks, companies, friendly societies, etc. Strict rules of evidence are not to be binding. Power is also given to send the claimant to a benevolent asylum or charitable institution, if the Commissioner is of opinion the claimant is unfit to be entrusted with the pension, and there is practically no appeal given from the Commissioner's decision.

By s. 16 the Registrar is directed to send a notice to the husband, father, mother, or children over twenty-one of any claimant, requiring each of them to furnish a declaration as to their means and ability to support the claimant. If no return is made after due time, the relatives may be summoned before the Commissioner, who shall have all the powers of a Court of petty sessions, to show cause why he should not contribute towards the costs of the pension of the claimant or pensioner. The onus of proving that a person summoned is not a relative of the claimant or pensioner is to be on the person so summoned. The Court can make an order for eight shillings a week against any one relation, although it may appear that other relations may be liable. Punishment of imprisonment for one month in default is provided, and cases may be heard *in camera*.

By s. 21 no person shall receive a pension certificate till he has executed an undertaking to transfer his property to the Treasurer of Victoria and authorising him to sell it.

By s. 26 payments of the pension may be made to ministers of religion or other persons named for the benefit of the pensioner.

S. 27 provides that the pension shall not be paid if the pensioner is in

prison, or in a lunatic asylum, or a hospital, or out of Victoria, but that it shall be forfeited; and it further provides that when the pensioner is discharged from any asylum or hospital after having been there more than twenty-eight days, his pension shall be resumed, dating back twenty-eight days previously to his discharge.

By s. 28 no person in a benevolent asylum shall draw a pension.

By s. 30 imprisonment with or without hard labour, not exceeding six months, is provided for offences against the Act—

(*a*) By false statements obtaining, or attempting to obtain, a certificate or pension;

(*b*) By unlawful means attempting to obtain or obtaining payment of a forfeited instalment of a pension;

(*c*) Personation;

(*d*) Aiding or abetting others in commission of the above offences;

(*e*) Wilfully lending pass certificates to any other person.

By s. 31 the Court, in addition to the punishment imposed by the last section, can—

(*a*) Cancel any pension;

(*b*) Reduce it;

(*c*) Impose a penalty not exceeding twice the amount of instalment wrongfully obtained; or if the defendant is a pensioner, direct forfeiture of future instalments of his pension equal in amount to such penalty.

S. 32 (1) provides that when a pensioner is convicted of drunkenness or any offence punishable by imprisonment for not less than one month, then in addition to any other penalty the Court may order forfeiture of one or more instalments falling due after conviction. By sub-s. 2, when in the opinion of the Commissioner the pensioner mis-spends any part of his pension, or wastes or lessens any part of his income or earnings, or injures his health or endangers or interrupts the peace and happiness of his family, the Commissioner may, on complaint of the Registrar or any paymaster or policeman, make an order directing that until further order the instalments shall be paid to a benevolent or charitable society, minister of religion, justice, or other person for the benefit of the pensioner, or cancelling the pension certificate or directing a forfeiture of some of the instalment. By sub-s. 3, when a pensioner is twice within twelve months convicted of any offence punishable by imprisonment for not less than one month, or of drunkenness, or when he is convicted of any offence punishable by imprisonment of twelve months or upwards, the Court shall cancel the pension certificate. By sub-s. 4 the pass certificate is to be delivered to the clerk of the court and sent by him to the Registrar.

By s. 33, notwithstanding that a pensioner has not been convicted of drunkenness, the Registrar may at any time summon him to show cause why his pension should not be cancelled, reduced, or suspended for a term

on account of such pensioner's drunken or intemperate habits, and the Commissioner may, if he thinks fit, cancel, reduce, or suspend such pension accordingly.

By ss. 34 and 35 the pensions are charged on the Consolidated Revenue, and an annual return is to be made of them to Parliament.

S. 37 gives the Governor in Council power to make regulations for carrying out the Act.

Employers' Liability (No. 1757).—This Act, entitled "The Employers and Employees Act, 1890, Continuance Act, 1901," continues indefinitely Part III. of the Employers and Employees Act of 1890.

Income Tax (No. 1758).—The Income Tax Rate Act of 1901 is a re-enactment of the previous Acts for the year 1902.

Betting.—No. 1765 is an Act entitled "The Sports Betting Suppression Act, 1901." SS. 3, 4, and 5 provide that the promoter of any sports, by advertising in a local newspaper and posting notices at the gateways and on the ground, may prohibit wagering and betting thereat. S. 6 provides a penalty not exceeding £20 for any person who, on the ground or in any place adjacent thereto, whether on his own behalf or for any other person, wagers or bets, or offers or promises to pay any wager and bet. S. 7 provides that any person so doing may be removed or apprehended without warrant by the police. By s. 8, if a person so removed re-enters the ground, he may be fined a sum not exceeding £50, or imprisoned for any period not exceeding three months, or incur both penalties in respect of each re-entry. By s. 9, any person removing the notices alluded to in s. 5 shall be liable to a penalty not exceeding £5.

Trusts (No. 1769).—The Trusts Act of 1901 provides that as soon as the executor or administrator of the estate of any deceased person has procured the registration of some other person as the holder of some shares not fully paid up in an incorporated company, without reserving any portion of such estate for the payment of any calls to be made, he shall be freed from personal liability for any call after the registration of the other person as holder, but it shall not affect the right of the company in its liquidation to follow the assets of the deceased person.

Sale of Diseased Plants (No. 1773).—The Vegetation Diseases Act, 1901, makes it an offence, with a penalty not exceeding £10, for any person to sell or expose for sale or to cause to be sold or exposed for sale any diseased tree, plant, or vegetable.

Education (No. 1777).—The Education Act, 1901, which amends the Education Act of 1890, makes a few unimportant alterations in the latter Act.

Public Service (No. 1779).—The Public Service Act, 1901, is a short Act which deals with the public service in Victoria, and is of merely local interest.

Gold Buying.—No. 1780 is an Act entitled "The Gold Buyers Act, 1901."

S. 2 is the definition clause. S. 3 provides that after March 1st, 1902, no unlicensed person shall buy unwrought gold or gold amalgam. SS. 4 to 7 provide for the licensing of buyers, the latter section allowing the manager or representative of any banking company in any locality to obtain a licence without any certificate of character. S. 8 provides that no Chinese person is to be licensed—this by the definition clause includes a half-caste. By s. 20 no licensed gold buyer shall smelt, work, use, or deal with any unwrought gold or gold amalgam until five days after he has purchased the same. By s. 25 no child under fourteen shall sell gold. By s. 26 no buyer shall buy gold except at the place where he carries on his business. Any offence against the Act is provided for in s. 23 by a penalty not exceeding £50, to be recovered in a summary way.

7. WESTERN AUSTRALIA.

[*Contributed by* R. W. Lee, Esq.]

Acts passed—36.

1 *Ed. VII.*:—

Supply.—Nos. 1, 5, and 6.

Loan (No. 2).—This Act authorises a loan of £2,600,000 for public works and other purposes.

Customs (No. 3).—The Commonwealth of Australia Constitution Act by s. 95 permits Western Australia for five years after the imposition of uniform customs duties to impose certain duties of customs on goods imported from other States of the Commonwealth. This Act continues existing duties in force.

Presbyterian Church of Australia (No. 4).—This Act gives legal effect as far as Western Australia is concerned to a scheme of union entered into by the Presbyterian Churches of the various Colonies to form one Presbyterian Church of Australia. The Act does not come into force until (*a*) the Moderators of the General Assemblies of the several churches have executed a deed poll signifying the acceptance of the scheme; (*b*) the Parliaments of the other States have passed Acts giving effect to it; (*c*) a notice of the above facts signed by the Moderator of the General Assembly of the Presbyterian Church in Western Australia has been published in the *Government Gazette*.

When the Act takes effect, the properties of the Presbyterian Church of Western Australia are to be held subject to the scheme of union set forth in the schedule, which also contains the standard of religious belief and ecclesiastical government.

1 & 2 *Ed. VII.*:—

Appropriation.—No. 1.

Gaols Acts Amendment (No. 3).

S. 2.—The Governor may by notice in the *Gazette* declare any lock-up to be a police gaol.

S. 3—Any Court may commit to a police gaol for a period not exceeding three calendar months.

S. 12 specifies the cases in which a guard or warder may fire upon a prisoner—viz. (*a*) if he attempts an escape, or (*b*) if he attempts an assault; provided that such firing appear to be necessary to prevent escape or that the assault committed or attempted be of a character apparently dangerous to life or likely to cause bodily harm to the person assaulted or threatened.

S. 14.—Commitments under the Debtors Act, 1871, may be made to a police gaol.

SS. 15 and 16.—Persons in custody may be brought up to answer any further charge or to give evidence on an order of Court without *habeas corpus*.

Workers' Compensation (No. 5).

S. 4.—This Act applies only to injuries of workers employed—

(1) On or in or about any railway, waterwork, tramway, electric lighting work, factory, mine, quarry or engineering or building work.

(2) On or in or about any employment declared by proclamation to be dangerous or injurious to health or dangerous to life or limb, provided that no such proclamation shall issue except pursuant to addresses from both Houses of Parliament.

Questions as to liability to pay compensation, etc., if not settled by agreement, are to be determined by the magistrate of the local Court sitting with two assessors (s. 8).

Special provision is made to secure compensation or damages, whether under the Act or independently of the Act, to workers in mines, factories, buildings, or vessels. The amount of compensation or damages to which any such person shall become entitled shall from the date of the accident become a charge upon the employer's estate or interest in such mine, factory, building, or vessel, and the plant and appliances thereof (s. 17).

In other respects this Act follows the model of the Imperial Act (60 & 61 Vict., c. 37).

Excess Expenditure (Nos. 6 and 9).—These Acts confirm and allow certain expenditures incurred for the services of the years 1899-1900 and 1900-1901, and not included in any Appropriation Act for the years in question. In the first year the excess expenditure on votes on the Consolidated Revenue Fund is £167,509 6*s.* 10*d.*; on votes on the General Loan Fund £28,294 0*s.* 5*d.* The corresponding amounts for 1900-1901 are £364,384 12*s.* 6*d.* and £135,398 11*s.* 3*d.*

Criminal Code (No. 14).—An introductory Act of ten sections contains a code of criminal law in a schedule and provides that it is to come into operation on May 1st, 1902.

The code itself extends to 713 sections and deals both with substantive law and with procedure. It consists of eight parts, each divided into numerous chapters: Part I., Introductory; Part II., Offences against Public Order; Part III., Offences against the Administration of Law and Justice and against Public Authority; Part IV., Acts Injurious to the Public in general; Part V., Offences against the Person, and relating to marriage and parental rights and duties and against the reputation of individuals; Part VI., Offences relating to Property and Contracts; Part VII., Preparation to commit Offences, Conspiracy, Accessories after the Fact; Part VIII., Procedure.

All or nearly all pre-existing criminal law is repealed. The Act aims at being exhaustive, and includes such topics as corrupt and improper practices at elections (chap. xiv.), frauds by bankrupts, etc. (chap. liv.).

Supreme Court: Additional Judge (No. 16).—This Act provides for an additional judge of the Supreme Court at a salary of £1,400.

Bush Fires (No. 18).—This is an Act to diminish the dangers resulting from bush fires. All earlier Acts are repealed.

S. 5.—The Governor may by notice in the *Gazette* declare the times of the year during which it shall be unlawful to set fire to the bush within any district or part of the State mentioned in the notice. Penalty up to £50.

S. 7.—No person shall burn any bush during the months of October to April inclusive without taking precautions—viz. (*a*) written notice to adjoining owners or occupiers; (*b*) three men at least in attendance to prevent fire spreading.

Trades Unions (No. 19).—This Act closely follows the provisions of the Imperial Acts of 1871 and 1876 (34 & 35 Vict., c. 31, and 39 & 40 Vict., c. 22).

S. 31.—A registered trade union or branch thereof may be registered under the Industrial Conciliation and Arbitration Act, 1902.

Industrial Conciliation and Arbitration (No. 21).—This repeals the corresponding Act of 1900, but re-enacts the greater part of it with improvements and additions.

An entirely new group of sections relates to Government employees. By s. 107, if any person employed by the Government on daily wages payable weekly or fortnightly is a member of any industrial union composed of workers of the same trade as such person, the Minister of the department in which such person is employed shall in relation to all such persons be deemed an employer.

S. 108.—Any association or society of Government railway servants may register under this Act as an industrial union of workers.

S. 109.—If an industrial dispute arises between the Minister and any such

union, it may be referred to the Court for settlement. A union may petition the Court to hear and determine any matters in dispute. No such petition shall be filed except pursuant to a resolution of a special meeting of the union called for the purpose. If the Court considers the dispute sufficiently grave to call for investigation and settlement, it shall notify the Minister thereof and appoint a time and place for the enquiry. In no case shall the Board of Conciliation have any jurisdiction over the Minister or the workers employed in his department. Except when inconsistent with the express provisions of ss. 107 to 109, every union of Government employees shall be subject to and entitled to all the provisions of this Act.

Health Act, 1898, Amendment (No. 23).—S. 7 validates proclamations, orders, and regulations for the purpose of preventing the spread of bubonic plague made or purporting to be made in pursuance of the provisions of the principal Act except as regards actions and suits already commenced, and indemnifies all persons in respect of anything done by them in pursuance of such proclamations, etc.

Early Closing (No. 24).

S. 3.—The Governor may by proclamation declare any municipality to be a district for the purposes of this Act.

S. 4.—The closing time for all shops except those mentioned in Schedule I. situated in any district shall be on one week-day one o'clock, on one week-day ten o'clock, and on the four other week-days six o'clock. Shops shall remain closed until 8 a.m. or such earlier hour as shall be mentioned in the proclamation.

Every shopkeeper may elect to close early on Wednesday and late on Saturday or *vice versa*. When he has two or more shops in any one district, they shall all close at the same time.

When in any week a shop is closed for the whole day by reason of a bank holiday or public holiday, it may remain open until six o'clock on the weekly half-holiday. Shops may be kept open until 10 p.m. on the week-day next preceding Christmas Day or New Year's Day.

S. 5.—A majority of shopkeepers (of shops not scheduled) in any district may memorialise the Minister to change the days of early and late closing, and thereupon alteration may be made by proclamation.

S. 6 relates to the closing time for hairdressers' shops, which is to be 10 p.m. on Saturdays and 6.30 p.m. on other week-days.

S. 9.—No shop assistant is, except on some special occasions for which provision is made, and except in scheduled shops, to be employed in or about a shop for more than half an hour after closing time.

S. 10.—In scheduled shops one half-holiday in each week must be allowed.

S. 11.—One hour is to be allowed daily for dinner, and also one hour for tea when the shop remains open after 6.30 p.m.

S. 12.—No woman or young person under the age of sixteen years is

to be employed for more than nine hours daily, exclusive of meal times, except on one day in the week, when the period may be twelve hours, nor for more than fifty-three hours in any week.

SS. 13 to 23 relate to the appointment and powers of inspectors, penalties, etc.

Coal Mines' Regulation (No. 25).—An Act of seventy-six sections with a schedule of rules. It appears to be modelled upon the corresponding Acts of Victoria and New South Wales.

Royal Commissioners' Powers (No. 28).—An Act for procuring the attendance of witnesses before Royal Commissions.

Prescription of Light and Air (No. 29).—No rights of access of light and air are to be acquired by prescription, grant, or otherwise unless by grant which (*a*) must be made by deed duly executed and registered, (*b*) shall provide that the benefit thereof shall endure for a term not exceeding twenty-one years.

Trading Stamps' Abolition (No. 30).—A trading stamp is any stamp, coupon, document, etc., which entitles the holder to demand and receive from any trading stamp company any money or goods. All such contrivances are prohibited under a penalty not exceeding £10. Trading stamps issued before the commencement of the Act must be redeemed in cash or goods at holder's option at the rate of fourteen shillings in the pound. If the issuing company fails or refuses to redeem, the holder may sue for and recover the value in cash. (The assent of the Governor to this Act has been temporarily withheld.)

Other Amending Acts.—1 & 2 Ed. VII., No. 2, amends the Wines, Beer, and Spirit Sale Act, 1880; No. 7 the Summary Jurisdiction (Married Women) Act, 1896; No. 8 the Land Drainage Act, 1900; No. 15 the Permanent Reserves Act, 1899; No. 20 the Land Act, 1898; No. 22 the Municipal Institutions Act, 1900.

Repealing Act.—No. 17 repeals the Prawn Fishing Act, 1876.

8. BRITISH NEW GUINEA.

[*Contributed by* W. F. Craies, Esq.]

Ordinances passed—2.

Only two Ordinances were passed in 1901.

No. 1 is an Appropriation Ordinance.

No. 2 adopts as the Law of New Guinea the Religious, Educational, and Charitable Institutions Act of 1861, Amendment Act of 1895 of Queensland (59 Vict., No. 4), except s. 2 thereof, and repeals as to deeds of grant, gifts or benefactions (otherwise than by will) made after May 31st, 1901,

the provisions of the Religious, Educational, and Charitable Institutions Act (of Queensland) of 1861, which Act had been adopted as the law of British New Guinea by Ordinance No. 6 of 1889.

By an Order in Council made on March 6th, 1902, authority was given to issue letters patent placing British New Guinea under the authority of the Commonwealth of Australia,[1] and authorising the Governor-General of the Commonwealth, so soon as the Commonwealth Legislation has made laws for the government of New Guinea, to issue a proclamation declaring that fact. From the date of such proclamation the letters patent of June 8th, 1888,[2] constituting the possession and government of New Guinea, are revoked without prejudice to anything done therewards. In the meanwhile the Governor-General is in those letters patent substituted for the Governor.

9. FIJI

[*Contributed by* W. F. Craies, Esq.]

Ordinances passed—3.

Finance.—Ordinances Nos. 1 and 3 are Appropriation Acts.

Disaffection.—Ordinance No. 2 makes it an offence punishable for any person to cause or attempt to cause any aboriginal native of Fiji to be disaffected to the Government, or to induce any such native to take any action having for its object the subversion or alteration of the present form of government. This Ordinance was passed at the instance of Governor O'Brien, and was directed against an agitation supposed to have been fomented by New Zealand for the annexation of the Fiji Islands to New Zealand.

The Ordinance has not yet been sanctioned.

10. NEW ZEALAND.

[*Contributed by* Godfrey R. Benson, Esq.]

Public Acts, 74; Local and Personal Acts, 26.

General Observations.—Of the public Acts of which no account is given below, some are of a local character, some are for the extension of periods fixed by previous Acts, or for the validation of proceedings in which some technical flaw has been found, and some are amending Acts of no interest.

One of the private Acts, No. 1 (*Rhodes Trust*), is of interest as pointing to the absence in New Zealand of any law adequately taking the place of the Settled Land Acts.

[1] See s. 122 of the Constitution of Australia Act, 63 & 64 Vict., c. 12.

[2] Statutory Rules and Orders, Revised (1st ed.), vol. i., p. 468.

Supply.—Nos. 1, 5, 11, 14 and 33 are Supply Acts.

Chinese Immigration (No. 3).—Acts of 1881 and 1888 limit the number of Chinese passengers that may be brought to New Zealand by any vessel, the limit varying with the tonnage of the vessel. They also require a payment in respect of each such passenger landed. The present Act aims at preventing these provisions from being evaded by Chinese members of the crew landing and remaining ashore.

Accidents' Compensation.—No. 4 empowers the Court in any proceeding to recover compensation for injuries through accident (other than proceedings under the Workmen's Compensation Act in which analogous provisions already existed) to require the claimant to be examined by an independent doctor appointed by the Court.

Police Offences.—No. 8 enlarges the class of public places in which the use of provocative language is penalised by the (N. Z.) Police Offences Act, 1884; it gives the magistrate power to fine up to £20, instead of only to imprison up to one year, for profane or obscene language used in a public place; and it makes habitual consorting with disorderly persons of various descriptions an offence punishable with three months' imprisonment.

Nurses' Registration (No. 12).—This Act provides for the formation of a register of qualified sick-nurses. Three years' hospital training and the passing of an examination are required for registration in most cases; but the Minister may make special provision for special cases.

Exportation of Arms.—No. 15 authorises the Governor to prohibit by proclamation the exportation, to any State named in the proclamation, of arms or warlike stores.

Physical Education: Drill.—No. 17 requires provision to be made for physical drill in all schools. The details are to be arranged between the Minister and the boards.

Charitable Gifts (No. 19).—By an Act of 1883, property given by will to certain specified kinds of public institutions, including schools and hospitals, is by an earlier Act exempted from death duties. The present Act makes the exemption from duty extend to all gifts, whether by will or otherwise, upon any trust for the public of whatever nature.

Mortgages of Land.—No. 20 provides a simple statutory form for mortgages of land. The Act appears to import into a mortgage made in this form all the provisions necessary for making the form widely useful. It is at any rate a great improvement upon the corresponding provision of the English Conveyancing Acts.

Maori Antiquities.—No. 21 empowers the Governor to buy any Maori antiquities. It further requires that Maori antiquities shall not be exported without previously being offered to the Governor.

Rabbits (No. 23).—Landowners who fail to destroy rabbits on their land when duly required to do so are liable under this Act to a penalty.

Shops and Shop Assistants (No. 24).—An Act of 1894 required a weekly half-holiday to be given to shop assistants, with certain exceptions. An Act of 1895 brought chemists' assistants within the exception. The present Act (with certain safeguards) restores them their half-holiday.

Charitable Institutions' Rating (No. 25).—Local authorities may under this Act exempt charitable institutions from rates.

Opium (No. 26).—Opium for smoking is not to be imported or manufactured. The importation of opium in a form unsuited for smoking is made subject to permits and regulations, and permits for this purpose may not be given to Chinese. The smoking of opium is prohibited under penalty.

Money-Lenders (No. 28).—The framers of this Act have taken the (United Kingdom) Money-Lenders Act, 1900, and, by the substitution of the word "or" for the word "and," have changed it from an almost inoperative measure into a very drastic measure. It will be remembered that under the United Kingdom Act the Court may upset a contract with a money-lender when it appears that the interest (or other charges) is excessive *and* that the transaction is one against which equity would (apart from the Act) give relief. (See *Wilton & Co.* v. *Osborn*, 1901, 2 K.B. 110.)

The effect of the change of "and" to "or" is obvious. It does not appear that such a simple and sweeping provision was at any stage contemplated by the authors of the United Kingdom Act.

Education Boards' Election.—No. 29 amends in various details the Act of 1900, which provided that education boards should be elected by the individual members of the several school committees within their area, instead of by the committees corporately. In particular this Act requires a declaration of secrecy by the returning officers, etc., and provides a penalty for disclosing the state of the poll before completion, or disclosing how any voter has voted. It is surprising that in an election of this character secrecy should be found requisite.

Fisheries.—No. 30 extends for a further year the bonus, given for a period by an Act of 1885, on canned and cured fish for export.

Inspection of Machinery.—No. 32 amends the Act of 1900, *inter alia*, by extending the times for the examination and certification of persons in charge of machinery, and by extending the requirements of certification to persons in charge of gold dredges.

Evidence (No. 34).—An Act of 1895 provides that in certain proceedings the judge or magistrate may require any person to be examined. The present Act extends the list of these proceedings, all of which (as extended) relate either to revenue or to the liquor laws.

Trustees (No. 35).—This Act, amending Acts of 1883 and 1891, adopts the provisions of the (England and Ireland) Trustee Act, 1893 (ss. 10 to 12 and 22), in regard to appointment of new trustees, and the exercise by a surviving trustee or trustees of powers originally conferred on two or

more trustees. It also adopts the provisions of the (England and Ireland) Conveyancing Act, 1881, in regard to maintenance of infants out of the income of trust property.

Aid to Public Works and Land Settlement (No. 36).—This Act authorises the Government to raise, by borrowing at not more than four per cent., £1,250,000, of which £600,000 is for the construction of new railways; £400,000 for the development of existing lines; £200,000 for roads and bridges, for lands for settlement, and £50,000 for the development of gold fields.

Industrial Conciliation and Arbitration.—No. 37 amends the law of conciliation and arbitration (which was codified in the preceding year) in a number of details. The most noteworthy of these amendments enables either party to a dispute to take it to the Court of Arbitration without awaiting the decision of the Board of Conciliation.

Public School Teachers' Salaries (No. 38).—This Act lays down an elaborate scale regulating the number of teachers and pupil-teachers in public schools and the pay of each. The number of teachers and the pay of the senior teachers rises with the average attendance of children in each school. The proportion of teachers (including pupil-teachers) to children is about one to forty. The salaries range from a capitation fee of £5 per child, for the sole teacher in a school with less than nine children, to £374 a year—the salary of a head-master in a school of 1020 children. A head or sole teacher has also, when the number in average attendance exceeds 20, a house, or an allowance in lieu thereof of from £20 to £50. The junior assistant in all the schools where assistants are allowed gets £80, and the senior male assistant in the largest schools £245. The salaries of women teachers are equal to those of men in the lower grades, but not in the higher. Considerable power to depart from the scale is conferred upon the minister and the boards acting together, especially for the purpose of district high schools.

Local Bodies' Loans (No. 39).—Local bodies may by this Act borrow for the purpose of public works, on the security of a special rate to be levied on the area benefited, provided that their borrowing is authorised by a majority of three-fifths at a poll of the ratepayers concerned. It further requires the Colonial Treasurer, within the limit of the funds available, to lend the sums duly demanded by local bodies for this purpose, and accordingly increases by £250,000 a year the amount which under previously existing Acts might have been lent to local bodies for various purposes, and authorises the Government to borrow for the purpose of making such loans.

Local Bodies' Gold-Fields, Public Works and Loans.—No. 40 makes mining privileges which were not previously rateable liable to a special rate for public improvements in gold districts.

Maori Lands (No. 42).—The Maori Lands Administration Act, 1900, required the consent of the Maori Council to every loan of land by a Maori,

and the consent of the Governor in Council to every sale; the present Act restricts these requirements to the case of land owned by more than two owners. This, however, does not affect the provisions of the principal Act intended to secure that every Maori alienating land shall retain sufficient for his own support. This Act further exempts from the provisions of the principal Act, lands which have been bought by a Maori from a European. It also extends the definition of Maori so as to include all persons of Maori descent, persons of one quarter or less Maori blood having been excluded by the previous definition.

Pariroa Native Reserve.—No. 43 vests certain lands, formerly set apart for a certain tribe, in the public trustee in trust for beneficiaries to be ascertained by the Native Land Court, and directs that a part of these lands shall be set apart for a native school.

Cook and Other Islands' Government (No. 44).—The islands subject to this Act were in 1901 ordered by the Imperial Government with the consent of the General Assembly of New Zealand, under the (Imperial) Colonial Boundaries Act, 1895, to be part of New Zealand. This Act, which, unless extended, is to remain in force for one session only, provides that the laws now in force in the islands shall continue to prevail, including native customs so far as they are not "repugnant to the general principles of humanity." But the Governor may by order in council repeal or alter any law, and may direct that any New Zealand laws, except those relating to intoxicating liquors, shall apply. The existing courts are to continue, but subject to appeal to the New Zealand High Court, and such appeals may be heard by a single New Zealand judge at the islands. The Governor may appoint a resident commissioner and other officers, and give them any powers. The existing "Federal Parliament" and "Native Councils" may continue to sit, under altered names, and may pass Ordinances, which, however, after consent from the Governor, must lie before both Houses of the New Zealand General Assembly. The New Zealand tariff is to apply, with the addition of an *ad valorem* duty not exceeding ten per cent., on articles which under that tariff are duty-free. The Governor may exclude certain classes of imports. He may take land for military or naval reserves for the Imperial or Colonial services.

Government Railways Department Classification (No. 45).—This Act prescribes the rates of pay for all grades in the Government railway service. The rates prescribed by it may be raised or lowered by a vote of the House of Representatives upon a message from the Governor, but any such increase or decrease must be made rateably throughout all grades of the service. The rates prescribed are, when judged by English standards, high for the lower ranks, but by no means high for the few highest positions. The general manager gets £1,000, rising to £1,250 a year. The two chief engineers and the chief traffic manager each get £700, rising to £900 a year. The rest of the "first division," which appears to include head-

quarters staff and station-masters, get in the lowest grade (after a cadetship of six years) £110, rising to £180 a year, and in the highest £600, rising to £650 a year. Some examples of the pay in the "second division" may be given. Guards get from 8*s.* to 10*s.* a day, the great majority of signalmen from 8*s.* to 9*s.* a day; fitters and boilermakers get from 8*s.* to 12*s.* a day; engineers 10*s.* to 12*s.* a day; firemen 7*s.* 6*d.* to 9*s.* a day; forgemen may rise to 15*s.* a day, and unskilled labourers appear as a rule to get 7*s.* a day.

The Act also sets up in each Island an "Appeal Board" to hear appeals from any member of the service who is "aggrieved with any decision of his superior officer," including appeals against dismissal or reduction in grade. The board consists of a judge or magistrate, a member elected by the "first divison," and several members elected by the several branches of the "second division"; the representatives of the "second division," however, only sit in cases affecting their own branch of that division. Decisions of the boards must go to the Minister of Railways for his approval, and appeals against petty fines go to the Minister only.

Coal Mines (No. 46).—This Act reduces the royalties required in the case of any coal-mining lease granted by Government. It amends the provision of the principal Act of 1891 for the inspection of coal mines by representatives of the miners, by enacting that inspectors for this purpose may be appointed by the union to which the miners belong, and in that case need not be themselves employed in the mine, and shall at all reasonable times have access to the mine. The difference of this from the corresponding provision of No. 60, below, suggests that miners' unions are more common in connection with coal mining. Among the other provisions of the Act are provisions corresponding to the "eight-hours section" of No. 60, below.

State Coal Mines (No. 47).—The Government is authorised by this Act to work coal mines on unalienated Crown lands, and on Crown lands resumed with the consent of Parliament. Sums not exceeding in the whole £150,000 may be raised to meet initial expenses, by borrowing, or out of the balances of certain public accounts including the Government Insurance account and the Public Trustee's account.

Payment of Members.—No. 48 raises the payment of members of the Legislative Council from £150 to £200 a year, and that of members of the House of Representatives from £240 to £300 a year. It also makes the period for which a member may be absent without incurring a fine of £2 a day, five clear days only instead of fourteen.

Old Age Pensions (No. 50).—The present Act is intended to facilitate enquiries, by the "deputy registrar" of old age pensions, into the circumstances of applicants for pensions, making it the duty of every one to give such information as may be sought from him for this purpose, imposing penalties for refusing information or giving false information. It also provides for the reduction or cancelling of a pension when, after

it has been granted, the pensioner becomes possessed of property; and it deals with the case when the applicant for a pension has recently transferred property to friends.

Military Pensions.—No. 53 extends the provisions of the Military Pensions Act, 1900, to the contingents for service in South Africa, which were raised after the passing of the earlier Act—viz., the 6th and 7th contingents.

School Attendance (No. 54).—Children between the ages of seven and fourteen are required to attend a public school four, six or eight mornings or afternoons a week, according to whether the school is open six, eight or ten times in the week. Total or partial exemption from this rule may be obtained from a head teacher or a member of a school committee on the grounds of efficient education elsewhere, distance, etc.; and schools, other than public schools, may obtain general exemptions for the children attending them. Parents are liable to a penalty of from 2*s.* to 10*s.* for every week of irregular attendance on the part of a child.

The Act further authorises school boards to establish special truant schools, to which a child may be sent at the wish of a parent, or upon the order of a magistrate. A child who, after admission to a truant school, fails to attend regularly, may be committed to an industrial school, and the magistrate may order the parent to maintain the child there. These provisions being plainly inapplicable to thinly populated districts, suggest that among the agricultural population they are not needed.

The Act further throws upon the parents of blind or deaf children the duty of providing them with education suitable to their case between seven and sixteen. When parents are unable to do this the duty devolves upon the Minister of Education, and when the Minister cannot agree with the parents as to their contribution to the cost, such contribution may be ordered by a magistrate.

Criminal Code: Defamation.—No. 56 codifies the criminal law in regard to defamatory libel.

Companies.—No. 58 substantially adopts for New Zealand the United Kingdom Companies Act, 1900 (except those provisions of it which were contained in a New Zealand Act of the same year). It contains, however, besides the necessary modifications, several additional provisions, among which the following may be noticed. Every company must require its directors to hold a qualification in shares. Every subscriber of a memorandum of association is required to take a directors' qualification. It is made unlawful to transfer or allow the transfer of a share on which there are calls unpaid—a novel and startling departure. In the case of a mining company a half-yearly statement of accounts must be sent to each shareholder, and this statement must show the amount (if any) in arrear on the part of each shareholder. In all cases of winding-up by the court the official assignee in bankruptcy must be the liquidator, though the

court may on his application appoint a deputy to act for him. The provision, omitted in the (N.Z.) Act of 1900, but here introduced, for the rectification of omissions to register mortgages, etc., is less liberal than s. 15 of the (United Kingdom) Act of 1900, and injustice may easily arise from this.

Factories (No. 59).—This is a consolidating and amending Act. The scope of the Act is in regard to the places and employments to which "factory" regulation applies, far wider than that of the United Kingdom Acts, for the definition of "factory" includes, *inter alia*, "every building, office, or place in which two or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale," except buildings in course of erection, and temporary sheds for building purposes. Questions may arise as to the meaning of "place" in this definition. Provision is made lest the intention of this wide definition should be evaded by the "sweating" system; for every occupier of a clothing factory or the like is required to keep a register of work given out; and clothing, etc., so made, if not made in a registered factory, is required to be marked in an effective manner.

The provisions in regard to safety and sanitation give very wide and general powers to inspectors, but contain nothing corresponding to the careful elaboration of requirements in detail which characterises the factory law of the United Kingdom.

The hours of adult male labour are limited to: forty-eight a week; eight and three-quarters a day; five continuous hours without a three-quarters-of-an-hour interval. This however, does not apply to men employed in getting up steam or the like, nor to certain scheduled trades concerned with the treatment of materials which decay rapidly. These include the meat-freezing and dairying trades.

Boys and girls under sixteen are only to be employed in factories in special cases specially authorised by the inspector. For employment under sixteen in factories, a certificate from the inspector of the general fitness of the boy or girl is required, in addition to educational requirements. The question above suggested as to the meaning of "place" here recurs. Do these restrictions apply to farm work? Employment under eighteen is altogether forbidden in certain trades specially dangerous to health.

The Act requires payment of a minimum wage "being in no case less than five shillings per week for boys and girls under sixteen years of age, and thereafter an annual increase of not less than three shillings weekly till twenty years of age.

"If any person employed in any capacity in a factory does any work for the factory elsewhere than in the factory, the occupier" of the factory "commits an offence." So it seems that, for example, a cabinet maker must employ one set of men for making cabinets in his workshop and another set of men for fixing them up in the houses of his customers.

Whatever be the intention of this Enactment, the words probably go far beyond the intention.

Mining (No. 60).—The principal provisions of this Act are as follows:—

No miner is to be employed underground for a longer period in any day than eight hours exclusive of meal times, except with payment of overtime wages at the rate of one-fourth as much again as the ordinary rate. (Compare No. 46, above.) It provides for the examination and certification of persons to be put in charge of dredgers in deep streams. It amends the provisions in an Act of 1900 for the inspection of mines by representatives of the miners, by enacting that such inspectors need not be persons employed in the mine, though if they are not so employed the *bona fides* of every application on their part to inspect must be certified by a magistrate or justice of the peace.

Public Health (No. 2).—No. 61 empowers the Governor to prohibit or impose conditions upon the importation of any material likely in his opinion to convey infectious diseases. The Act amends the provisions of the consolidating Public Health Act of 1900 as to quarantine, and amends in unimportant respects the provisions for exemption from vaccination of the children of persons conscientiously believing that vaccination will be prejudicial to the child's health.

Timber.—No. 63 provides that the Governor may cause duties not exceeding three shillings per hundred superficial feet to be imposed on exported timber.

Native Land (No. 65).—The greater part of this Act is concerned with the settlement of thirty-four cases of special difficulty which it appears to have been beyond the power of the Native Land Court to settle satisfactorily. But it contains also amendments to the law of which the most interesting empowers the court in ascertaining successors to a native to give (contrary, it appears, to native custom) a life interest in his property to his widow, whether married according to English law or according to native custom.

Flax Grading and Export.—No. 67 prohibits the export of flax which has not been examined and graded according to regulations which are to be made by the Governor.

Royal Visit's Expenses.—No. 73 provides for repayment to the Governor of £2,250—the expenses incurred by him on behalf of the Colony and at the request of his Ministers on the occasion of the recent Royal visit.

New Zealand Ensign (No. 74).—An Act dealing with the same subject was passed in 1900, but by a provision in the Act itself, reserved for the ascertainment of her late Majesty's pleasure, it appears that the authorisation by that Act of the perfectly general use of the ensign in question as the New Zealand ensign, was not approved by the Imperial Government; for the present Act authorises such general use on shore only, and at sea restricts the use to vessels belonging to the Government of New Zealand, or permitted under an Admiralty warrant to fly the ensign. It appears from the preamble

that this ensign was sanctioned for vessels in the employment of the Colony, by a proclamation of the Governor in 1869, under the (Imperial) Colonial Defence Act, 1865, and had since passed into more general use which it was thought well to sanction.

V. SOUTH AFRICA.

[*Contributed by* Israel Davis, Esq.]

1. CAPE COLONY.

No Statutes have been passed.

2. NATAL.

Acts passed—50.

Zululand.—By No. 8 the Laws and Acts relating to Indian immigration enumerated in the schedule to the Law are to be extended to Zululand, from a date to be appointed by proclamation in the Natal *Gazette*.

By No. 10 the Registry of Deeds for Zululand is abolished, and the powers of the Registrar of Deeds for Natal are extended to Zululand. Consequent fiscal regulations are made.

Cattle and Wild Animals.—By No. 12 a duty of £100 is imposed on the exportation of every Angora ram or ewe from the Colony under penalty of a fine of not less than £25 or not more than £100, or imprisonment in default of payment. The duty is not payable in the case of exportation to South African Colonies, which impose a similar duty on the exportation of Angora sheep. The Act is not to take effect until Proclamation, which is not to be made before similar enactments are promulgated by the Government of the Cape of Good Hope and the Province of Mozambique.

By No. 17 oyster fishing is regulated and protected. No. 40 relates to ostriches and No. 42 to locusts.

Harbouring Unmarried Child, etc.—By No. 13 a magistrate may make orders for relief upon complaint by parents, guardians, persons entitled to service, etc., that any unmarried child or unmarried native female is harboured or kept.

Telegraphs.—No. 16 amends the law as to telegraphs.

Public Holidays.—By No. 18 the following are declared to be public holidays—namely, New Year's Day, Good Friday, Easter Monday, Whit Monday, May 24th (Victoria Day), Michaelmas Day, November 9th (the King's birthday), Christmas Day, and any day appointed by Proclamation of the Governor.

Burial-Grounds.—By No. 19 provision is made for the acquisition by the Government under agreement or under the Lands Clauses Consolidation Law, 1872, for the purposes of providing burial-grounds for officers, non-commissioned officers, and men on either side who have died in the course of or from the effects of the recent campaign in South Africa.

Burr Weed.—By No. 20 the *Xanthium strumarium* burr weed is included in the provisions relating to the *Xanthium spinosum* burr weed in Law No. 38 of 1874.

Boilers.—By No. 28 regulations are made for the annual inspection and the testing of boilers by inspectors, and for rules to be made by the Governor in Council for the objects of the Act. All persons keeping and using a boiler for generating steam are to obtain an annual licence for ten shillings, subject to obtaining a previous certificate of satisfactory examination by the inspector. Boilers used in public departments, including railways, are exempted.

Loan.—By No. 29 the Governor may raise a loan of £3,000,000 under the General Loan Act, 1882, for the purposes of railways, harbours, and telegraphs.

Trust Funds.—By No. 31 the Colonial Treasurer shall without further appropriation pay out of the Natal Public Account in London any sum adjudged by final judgment, decree, rule, or order of any Court of competent jurisdiction in the United Kingdom to be payable by the Government in Natal in respect of any Natal Government securities. In the case of Colonial stock comprised in the Imperial Colonial Stock Act, 1877, the Colonial Treasurer shall without further appropriation pay out of the same account in London the sums required to be paid to enable the registrar of such stock to comply with the requirement of the Imperial Act.

Intoxicating Liquors.—By No. 32 any borough or township may make by-laws fixing the hour of ten at night as closing time. Licences are not to be renewed after three convictions of the applicant of contraventions of the Liquor Act of 1896, where such contravention took place with the connivance or concurrence of the applicant. Licences are not to be transferred pending any charge. The making of "isityimiyana" from fermented sugar is wholly prohibited. Clubs supplying liquors to members and guests are to obtain club licences. Applications for new club licences are to be made in the same way as applications for bar licences or country hotel licences. All applications for new club licences are subject to the approval by the Governor upon the recommendation of the mayor or chairman of the local Board.

By No. 37—which is not to take effect until after a Proclamation notifying agreement by the colonies and possessions parties to the South African Customs Union of 1898 to impose a customs duty as provided by the Act—an excise duty of twopence per gallon is to be levied, with certain exceptions, on every gallon of beer exported from a brewery in the Colony.

No. 33 is a consolidating Statute of 159 sections relative to wines and

spirits. It provides for licensing and regulating distilleries, for excise and other purposes, and enacts that wines made in Natal shall be exempt from duty.

Supreme Court.—By No. 34 Scottish law agents are declared to be within a previous enabling Statute. An appeal from the Circuit Court is to lie under the Supreme Court Act, 1896, at the instance of either the prosecution or the accused in any criminal case in which an appeal shall have been brought from the Magistrates' Court to the Circuit Court. This Act further provides for the execution or stay of a judgment and sentence on such appeals.

By No. 39 power is given to the Supreme Court to make rules, subject to the law of evidence or any Act or Law, for the authentication of the execution of documents executed out of Natal which may be produced or used in any Court or public office in the Colony.

Magistrates.—No. 43 amends the Civil Service Act, 1894. No person is to be appointed a magistrate or assistant magistrate who has not served five years and upwards in the Natal civil service, unless he has passed an examination under s. 35 of the principal Act or is an advocate or solicitor of the Supreme Court. The Governor is to have the power to calculate pensions in cases where officers have served partly in the Colony and partly in the Imperial service or any other colony or possession.

Road Boards.—No. 35 repeals and re-enacts with amendments the Road Board Law, 1888. Road boards may be constituted for every magisterial division, except certain urban divisions. They have jurisdiction as to fencing, removal of gates, etc.

Natal Cape Railway.—By No. 36 the Governor is empowered to make and maintain a line of railway commencing by junction with the main line of the Natal Government Railway at Pietermaritzburg and ending at or near Riverside on the border of the Cape Colony.

Children.—No. 38 provides for the support or training of destitute children and juvenile offenders.

Indemnity.—No. 41 extends Act No. 15 of 1900. It is an Act of general indemnity for anything commanded or done in obedience to commands in the Colony for the suppression of hostilities or the maintenance of good order and government or for the public safety. Sentences of military tribunals or any Court held under military authority are confirmed. The Governor's certificate that any act was done under such authority or in good faith is to be conclusive. All trade and customs arrangements made in regard to the Orange River Colony by the Governor or person administering the Colony for the time being are ratified or declared to be valid until revoked by the Governor. Any order made after October 23rd, 1899, by the Governor for the time being or person administering the Colony for suspending the operation of any Act of Parliament is confirmed. The Governor and the Colonial Treasurer and all persons concerned are indemnified in respect of any payments made by the Colonial Treasurer

from the Consolidated War Fund for meeting expenses occasioned by the subsisting state of war, but which have not been authorised by an Act of Supply.

Public Health.—By No. 44 the Governor in Council is empowered to appoint a Public Health Officer as head of the Department of Public Health for the Colony with subordinate district health officers. The Minister of the Department of Health may appoint sanitary inspectors and other employees. A Board of Health is constituted to assist the Government with advice. The Governor in Council may make regulations relative to sanitation, nuisances, and public health. These regulations may, among other things, provide for the cleanliness and sanitation, ventilation, drainage, and removal of rubbish from all premises, stabling and sheds for animals, or places where milk or food of any kind is prepared or sold, for the methods of delivery of food, the prevention of pollution of water, and of nuisances in manufacture, and for the removal, destruction, or disinfection of contaminated clothes or articles. The district health officers may make special regulations upon any outbreak of epidemic disease. Certain nuisances are prohibited. Every case of infection and epidemic disease is to be at once reported both by any medical practitioner and by any householder or occupier of the premises, under penalty of a fine with or without imprisonment.

Diseases may be declared infectious by the Health Officer. The Minister may provide hospitals. The Governor may make regulations for isolation or for the exercise of powers under the quarantine and leprosy laws and for other purposes in the case of an outbreak or threatened outbreak of general disease in the Colony. Owners and drivers of public conveyances and owners or occupiers of premises are to disinfect the same after knowledge of any case of occupation of the same by a person suffering from infectious disease under penalty of a fine. The boroughs of Pietermaritzburg and Durban are excepted from the operation of the Act, but the Act may be extended to them by order of the Governor in Council. The Act further provides for compensation in certain cases for destruction to or injury of property, for offences, punishments, and the enforcement of the provisions of the Act.

Adulteration.—No. 45 amends the law relating to the adulteration and fraudulent sale of food and drugs. Articles of food or drugs are not to be mixed, and are not to be knowingly sold when mixed, with any material so as to render the article of food injurious to health, or so as to affect injuriously the quality or potency of the drug. No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality demanded by the purchaser, except non-injurious additions for the production or preparation for carriage or consumption, proprietary or patent medicines, foods or drugs unavoidably mixed or compounded under the Act, or unless a label is affixed to or with the article stating that the same is mixed. Margarine and mixtures

of margarine must be so marked. To affix false labels and warranties is made a punishable offence. The Act provides for analysis and the appointment of town and other analysts. The Governor in Council may make regulations and town councils may make by-laws within the district for the purposes of the Act. All contraventions of the Act or such regulations or by-laws are cognisable in the Magistrates' Courts, and all offences are made punishable by fine with the alternative of imprisonment.

Native Law.—By No. 1 the supreme chief, with the help of three nominated advisers, is to decide who shall be deemed the general heir of a deceased chief in charge of a tribe. His decision is to be final.

By No. 15 a magistrate, with the approval of the Secretary for Native Affairs, may grant to any native chief having the written permission of the Governor to keep a gun, one or more permits to purchase gunpowder not exceeding two pounds in quantity in each year.

No. 46 repeals and re-enacts with amendments the Labour Tout Regulation Act, 1896. Any person supplying or contracting to supply natives to be employed in work of any kind (therein defined as a "tout") must take out a licence from and with the approval of the magistrate in each division in which he intends to procure native labour. The charge for every such licence is £5 per annum. The tout's contract with natives is to cease on their entry into the service for which they are procured. The contract by natives so procured with their employers is to be registered. Wages are to be paid in full to natives without deduction of debt or fee to the tout. The following practices are prohibited: Touting for services outside the Colony, unlicensed touting, entry by any tout without permission on any Crown or private land or native location, enticing servants from their employment, harbouring servants or apprentices who have deserted. The Act does not apply to persons engaged solely by or in the immediate service of the Imperial or Colonial Government.

By No. 49 natives are to be required to obtain an identification pass in the form set out in the schedule or to be registered, and every person intending to engage a native as a servant shall first require the native to produce his pass. The Act is not to come into force until after the Governor shall have notified in the Natal Government *Gazette* that it is his Majesty's pleasure not to disallow the same and then at such date as the Governor may appoint.

By No. 50 native servants tried for an offence are to return to their master's service immediately after the trial or sentence.

3. CERTAIN PROCLAMATIONS.

Proclamations entitled "Nos. 1 to 27 of 1901."

Oath of Allegiance.—No. 5 provides for the appointment of commissioners in the Transvaal and the Orange River Colony for administering the oath of allegiance to burghers of the late South African Republic and Orange Free State desirous of taking the oath and claiming thereby their privileges as British subjects.

Magistrates' Courts.—No. 6 establishes Magistrates' Courts at Pretoria and other districts. The jurisdiction in civil and criminal matters is similar to that of the late Landdrosts' Courts, provided that in civil proceedings the defendant must be personally served within the jurisdiction, and the cause of action must have arisen after September 1st, 1900. Special Criminal Courts are established at Pretoria and Johannesburg. Each Court is composed of three judges. The jurisdiction is unlimited as to offence, but limited in area to the district or districts appointed or notified. The rules of procedure and evidence follow the rules adopted by the late Landdrosts' Courts. The Courts established are Courts of record, with pleadings and proceedings in the English language. Death and certain other penalties must be approved by the High Commissioner or Legal Adviser respectively before being executed.

Interdicts.—No. 12 gives jurisdiction to the Special Criminal Courts at Johannesburg and Pretoria to confirm interdicts against persons and movable property granted by Magistrates' Courts in certain cases where a confirmation of the interdict is necessary. The Special Criminal Courts are empowered on application to appoint a *curator bonis* of the estate of any deceased, incapacitated, or absent person in all cases where a *curator bonis* may be properly appointed, together with the powers, authority, and directions named in the Proclamation.

Police.—No. 15 of 1901 establishes a police force for the Transvaal.

Johannesburg.—No. 16 makes temporary provision for the municipal government of Johannesburg.

Outlying Territory.—By No. 18 the High Commissioner, in exercise of powers conferred by an Order in Council dated November 28th, 1899, proclaimed certain regulations affecting trade, licences for trade, liquor, arms and ammunition, hut tax, diseases of animals, coinage, weights and measures, postal arrangements, oaths and declarations, filibusters, concessions and ownership of land within the parts of South Africa bounded by the River Zambesi, the German South-West African Protectorate, the Portuguese possessions, the Congo Free State, the Kafukwe or Loengi River, and territories of the Bashukolumwe tribe east of the Kafukwe River.

Fugitive Offenders Act.—No. 20 applies Parts I. and II. of the Fugitive Offenders Act, 1881, to the Bechuanaland Protectorate, Southern, North-

Western, and North-Eastern Rhodesia, Barotsiland, British Central Africa Protectorate; and Part II. of the Act to the Colonies of the Cape of Good Hope, Natal, Basutoland, Orange River, Transvaal.

Basutoland.—No. 25 provides for the authentication of documents.

Mashonaland and Matabeleland.—No. 27 makes provision for the election of members for electoral districts of Mashonaland and Matabeleland to sit in the Legislative Council of Southern Rhodesia.

4. TRANSVAAL.

Proclamations entitled "Transvaal Nos. 1 to 41 of 1901."

Marriages and Succession.—No. 1, after stating that it was not then desirable to issue letters of administration to executors, provides that the death notice required by Law No. 12 of 1870 shall be given to the resident magistrate, who is to appoint some proper person at a reasonable remuneration to frame the death notice and make the inventory required by that Law. The resident magistrate may provide for the safe custody of the property until a *curator bonis* has been appointed under Proclamation No. 12 of 1901 (see *ante*).

By No. 2 legal effect is given to special licences to marry signed by the Military Governor of Pretoria or the Secretary or Legal Adviser.

By No. 21 the Administration is empowered to appoint temporarily a proper person to solemnise marriages under Law No. 3 of 1871 in districts in which a Court of a resident magistrate has not been established.

No. 22 empowers superintendents to solemnise marriages in burgher camps distant more than four miles from the Court of a resident magistrate, and to make provision for death notices and inventories.

Gold Exportation.—By No. 6 various restrictions placed on the transport and exportation of raw gold are removed. All gold deposited with banks is to be delivered up on application to the bank supported by affidavit by registered companies entitled. Banks and such companies may export gold; other persons and companies may make application to the Special Criminal Court which is authorised to adjudicate. All dealing with gold is subject to the laws of the late South African Republic.

Possession of Property.—No. 8 gives power to magistrates to make orders for delivering up of movable property, houses, or buildings, on affidavit of any person claiming that movable property, houses, or buildings belonging to him are unlawfully in the possession or occupation of any other person, unless the person in possession or occupation can satisfy the magistrate of his title. The Proclamation does not affect any other proceedings, civil or criminal.

Inquests.—No. 10 provides for the holding of inquests by resident magistrates. Justices of the peace, ascertaining that a dead body has been found within their jurisdiction, but more than six miles distant from the

Court, are to hold a preliminary enquiry and report thereon, and in all cases to give information without delay to the resident magistrate.

Contracts for Mining Rights.—By No. 12, in the case of contracts entered into before October 11th, 1899, to purchase farms and other lands situated in the Colony, or to purchase or lease mining rights with or without the right of prospecting for precious stones, the period between October 11th, 1899, and a date to be notified in the *Gazette* shall not be taken into account in calculating the period during which it was agreed that such contracts should be in force. All payments and acts to be performed in consideration of and for the preservation of rights acquired under the said contracts during the period, and all rights required to be exercised within the period, may be done as if the period between October 11th, 1899, and the date to be notified did not exist. An exception is to be made in all cases where the non-compliance with the terms of the contract was due to the neglect of the person bound to comply, and was not caused by the state of war.

Avoiding Transactions.—No. 26 proclaims that any alienation of property, whether of lands, mines, or mining rights, within the Transvaal, and any interest therein of whatsoever nature, and any charges or encumbrances of whatsoever description declared, charged, or made by the late Government of the South African Republic subsequent to March 19th, 1900, and any concessions granted subsequent to the said date, are null and void.

Mortgages and Charges.—No. 27 declares that after the date of the Proclamation (October 9th, 1901) no exemption from interest in the case of mortgagors, not at that date in beneficial occupation, shall be claimed after such mortgagor shall obtain beneficial occupation, provided that no action shall be brought for the capital secured by the mortgage bond until a date to be notified in the *Gazette*.

Vaccination.—No. 23 gives powers to make regulations for the compulsory vaccination of natives in the labour districts of Johannesburg, Boksburg, and Krugersdorp.

Fugitive Offenders.—No. 25 gives effect to the Order in Council of August 8th, 1901, extending the provisions of Part II. of the Fugitive Offenders Act, 1881, to the Transvaal (compare No. 20 of 1901, *ante*).

Defaced Coin.—No. 15 amends Proclamation No. 4 of February 6th, 1901, by prohibiting the defacement of the King's coin or coin issued by the late Republic, or uttering defaced coin.

Health Boards.—No. 28 provides for the establishment of health boards with power to make by-laws for the regulation of, *inter alia*, fires, infectious diseases, obnoxious trades, streets and public places, sewers, slaughter of animals, street traffic, etc. A schedule contains by-laws which are to be in force in any area in which a board is appointed until revoked or amended by other by-laws.

Public Holidays.—By No. 30 bills and promissory notes payable on

a public holiday are to be payable, and in the case of non-payment may be noted and protested on the next following day on which a bill of exchange may be lawfully noted and protested. Similar provision is made as to notice of dishonour, etc.

Betting Houses.—No. 33 prohibits the keeping of a house, office, room or other place for the purpose of betting, etc. So much of Law No. 7 of 1890 as excepts lotteries on horse-racing from provisions of that Law is repealed, but the Proclamation does not extend to the course or other ground used for horse or other racing, lawful sport, game, or exercise.

Repeal.—No. 34 repeals in whole or in part more than five hundred Laws, Volksraad resolutions, and Government notices of the late Republic.

Native Law.—No. 19 abolishes the penalty of lashes provided by Law No. 22 of 1895 and by the Native Pass Law on Gold-Fields published in the *Staats Courant* of February 1st, 1899, except for a contravention of s. 18 of the latter Law. The said Law is declared to be valid, but by No. 11 the "minimum penalties" for which it provided are abolished.

No. 35 relieves any ordained coloured minister of a recognised Christian denomination, any coloured person certified as a teacher or exercising a profession or trade, from the pass laws, subject to his obtaining a letter of exemption.

No. 32 vests in a Commissioner for Native Affairs the powers previously exercised by an official of the Republic.

No. 36 absolutely prohibits the sale, barter, or supply, except for medical purposes, to any coloured person, of any wine, spirituous or malt liquor, methylated spirits, spirits of wine or any other intoxicating brew or mixture, including Kaffir beer, within six miles of a town or gold-field. For the first offence the penalty is loss of licence (if any) and not less than six months' and not more than twelve months' imprisonment and a fine not exceeding £250, and in default, imprisonment. The penalties are doubled on the second offence and increased substantially on subsequent offences. Coloured persons obtaining the liquors named are liable on conviction to be imprisoned for a term not exceeding three months. The offences are brought within the jurisdiction of the resident magistrate. Powers of search and seizure are extended to constables.

No. 37 provides for regulating the entry of natives into and their return or departure out of the Transvaal, for the protection of natives travelling into the Transvaal, and for the control of native labourers on public diggings, and contains regulations for passes.

By No. 38 persons procuring or undertaking to supply by themselves or through agents natives for work in the Transvaal are required to obtain a licence for £15 and to observe the regulations of the Proclamation. The Proclamation does not apply to any person obtaining labour for his own service or business exclusively, if the total number of natives employed by him does not exceed twenty at any one time.

5. ORANGE RIVER COLONY.

Proclamations—High Commissioner's and Administrator's, Nos. 1 to 11 of 1901; Deputy Administrator's, Nos. 1 to 22 of 1901.

Defaced Coin.—No. 3 (High Commissioner's) is similar to the Proclamation Transvaal No. 15 above referred to.

Insolvency.—By No. 4 (Deputy Administrator's) the Laws of the late Orange Free State relating to insolvency, and the estates of minors, lunatics, deceased and absent persons (including the Law of Tutors and Curators), are until further proclamation to be observed. The powers, functions, and duties of the High Court are vested in the Deputy Administrator.

Oath of Allegiance.—No. 5 (High Commissioner's) contains provisions similar to No. 5 of 1901, proclaimed in the Transvaal.

Resident Magistrates.—No. 7 (High Commissioner's) provides for the establishment of Courts of resident magistrates in addition to Courts already established in the Orange River Colony. Such Courts within their district are to have the power, privileges, and jurisdiction of the late Courts of Landdrosts, provided that in civil causes the defendant is personally served within the jurisdiction, and that the cause of action arose after May 28th, 1900. Sentences above £10 fine, three months' imprisonment, or fifteen lashes must be confirmed by the Deputy Administrator. The Deputy Administrator is to have power to review civil proceedings where the amount in issue exceeds £20 or involves a claim exceeding £50. All interdicts are to be confirmed by the Deputy Administrator. Assistant magistrates may be appointed. A Special Criminal Court of three judges is established at Bloemfontein, with unlimited jurisdiction in criminal matters. Sentence of death cannot be executed until confirmed by the Administrator. Certain minor sentences exceeding £100 fine, one year's imprisonment, or twenty-five lashes must be submitted to the Deputy Administrator for confirmation. Magistrates are to hold preliminary enquiries. The Courts are to administer the laws of the Colony according to the practice, procedure, and rules of evidence of Landdrosts' Courts. Pleadings and procedure to be in the English language. A form of indictment is provided. Certain persons are to be entitled to practise in the Courts. The magistrates are to have the powers formerly vested in Landdrosts under Law No. 26. of 1899 and relating to marriages.

Fugitive Offenders.—No. 9 (High Commissioner's) adopts Part II. of the Fugitive Offenders Act, 1881.

Rinderpest.—Nos. 10 and 15 to 18 (Deputy Administrator's) contain regulations and prohibitions as to the introduction of cattle from Basutoland and other places.

Avoiding Transactions.—No. 11 (Administrator's) is similar in terms to Transvaal No. 26 of 1901.

Sale of Stock.—No. 12 (Deputy Administrator's) regulates the sale of horses, mules, cattle, sheep or goats. Stringent regulations are imposed to prevent theft and to facilitate the detection of thieves and the recovery of stolen stock. All purchases except at auctions held by licensed persons are to be registered. No stock is to be removed from the district without leave. Magistrates are vested with extensive powers of enquiry, search, arrest, and impounding stock.

Contracts.—No. 13 (Deputy Administrator's) is similar to Transvaal No. 12 of 1901.

Inquests.—No. 14 (Deputy Administrator's) follows the regulations of Transvaal No. 10 of 1901 above referred to, with the exception of some differences of which the most important is that justices of the peace are to hold a preliminary enquiry if a dead body has been found within their jurisdiction more than ten miles from a Court of resident magistrate.

Liquor Law.—Nos. 19 and 22 (Deputy Administrator's) prohibit the brewing or distilling of beer in the Colony except in established breweries, until a date to be notified.

VI. WEST AFRICA.

[*Contributed by* ALBERT GRAY, ESQ.]

1. GAMBIA.

Ordinances passed—17.

Alien Merchants.—Two "private Acts," as we should call them, have been passed in order to enable two very similar though distinct firms of foreign partners to hold land in the Colony. It is unusual to notice private Acts in this review, but these examples invite criticism. The leading clause runs as follows:—

> M. M., N. M., etc., members of the firm of M. Frères in Bathurst, or such of them more or less as shall hereinafter (*sic*) constitute the members of the said firm, shall be and are hereby declared to be a body politic or corporate in deed and name by the name of M. Frères, and by that name hereafter shall be able and capable to purchase, acquire, hold, possess, enjoy, and to have, take, and receive to them and their successors and assigns real property in the Colony, etc.

It would seem that the incorporation is limited to the persons named, and that a new member of the firm does not become a member of the corporate body.

Administration.—Effect is given by No. 7 to the convention made with

the United States for the improvement of the position of the subjects of the contracting States in regard to administration matters. When on the death of a person in the Colony any real property would pass to an American citizen but for his alienage, such citizen is allowed three years to realise the property, and for that purpose may apply for letters of administration, etc. Likewise any person in this Colony is authorised to dispose of his personal property to persons who are American citizens, on payment of same duties as if they were British subjects.

Civil Procedure.—All causes and legal proceedings, other than criminal, are hereafter to be tried by the Chief Magistrate without a jury.

Acquisition of Lands.—Provision is made for the acquisition of lands for public purposes by an Ordinance (No. 10) which seems to follow the lines of the Sierra Law Ordinance of 1898.[1] As in that case, no compensation is to be paid for unoccupied land, but here lands are to be deemed unoccupied "when it is not proved that beneficial use thereof for cultivation or inhabitation or for collecting or storing water or for any industrial purpose, is or has been had during the lives of any person claiming interest therein or of the last immediate ancestor or predecessor of such person."

2. GOLD COAST.

Ordinances passed—20.

Many of the Ordinances of the year passed in this Colony consist of small amendments of existing law. Only a few demand special notice.

West African Frontier Force.—No. 10 is an Ordinance in almost identical terms to that described in the notes on Sierra Leone legislation.

Town Councils.—The Town Councils Ordinance, 1894, is amended by No. 11 in a material particular. The former law required that one-half of the members of town councils should be official members. The present law enacts that one-half shall consist of so many official and of so many other members as the Governor may appoint.

Colonial Stock.—The Imperial Colonial Stock Act, 1900, gives the benefits of the Trustee Act, 1893, to Colonial stocks registered in the United Kingdom with respect to which there have been observed such conditions as the Treasury may prescribe. Ordinance No. 17 authorises the Government through the Crown Agents to pay any sums required by the judgment of a competent Court in the United Kingdom to be paid in respect of Gold Coast Government securities without further appropriation than this Ordinance.

The last section is as follows :—

If at any time an Ordinance is passed which appears to the Imperial Government

[1] See Journal, N.S., No. III. p. 525.

to alter any of the provisions affecting the Government securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to those securities, that Ordinance will properly be disallowed.

This enactment is passed in pursuance of a recital in the preamble of a Treasury order making it a condition under the said Act of 1900 that the Colonial Government shall place on record a formal expression of their opinion that any Colonial legislation which appears to the Imperial Government to alter any of the provisions, etc. (as in this section), will properly be disallowed.

Concessions.—Concessions under the Ordinance of 1900 (noticed at length in our last year's summary) are subjected to a stamp duty of £25 (No. 19), but there is an exemption in favour of "any concession which purports to be an absolute conveyance and which is specially exempted from this duty by the Commissioners or by such other person as may be appointed by the Governor."

The Concessions Ordinance, 1900, is itself amended in some particulars by No. 20. This Ordinance corrects a good many of the flaws and difficulties to which attention was called in this Journal last year. One of the sections to which objection was taken was s. 21, which fixed the date from which a certificate of validity is to be held good. A new section is now substituted:—

"A certificate of validity shall be good and valid from the date of such certificate as against any person claiming adversely thereto. In the event of the land therein referred to or any portion thereof becoming or being declared to be the property of any person other than the *grantor* [? grantee] mentioned in such certificate, the Court shall on the application of the holder of the said certificate endorse on the certificate a statement to that effect and any other prescribed particulars, etc.

3. LAGOS.

Ordinances passed—15.

Trade Marks.—No. 4 is a Trade Marks Ordinance of the now general type.

Registration.—Under an Ordinance of 1888, extended in 1895, a General Registry Office was established with a Registrar-General. The Colony now economises by abolishing that officer and distributing his functions. Thus, the Chief Medical Officer becomes Principal Registrar of Births and Deaths; the Registrar of the Supreme Court takes over the marriages and instruments affecting land; and the Police Magistrate registers alien children.

Sale of Drugs and Poisons.—The Ordinance of 1900 which affected to restrict the power of selling drugs to licensed persons and to regulate the sale of poisons, and which was noticed in our review of the legislation of

that year, is now repealed without any substituted enactments (No. 8). Great difficulties are experienced in dealing with this subject in tropical countries, where vegetable poisons are ready to every man's hand. In India it is understood to be held inexpedient to attempt any control.

Notaries.—The appointment of notaries is confided to the Chief Justice (No. 10). They are to be enrolled as officers of the Supreme Court. The Ordinance also prescribes their fees.

Protectorate.—Power is given (No. 11) to the Governor, at the request of the native authorities of the Protectorate, to order natives convicted in the Protectorate to serve their terms of imprisonment in prisons of the Colony.

Native Councils.—Under Ordinance No. 15 there are established a Central Native Council and provincial and district councils, with power to appoint town and village councils.

Part I. deals with the Central Council, which is to consist entirely of natives, saving the Governor, who is to be president. The number is not fixed, but the quorum is five. The duties of this Central Council are deliberative only—"to consider such questions relating to the good government and the well-being of the native population as shall be from time to time submitted to them by the Governor, and to give the Governor honest and well-advised counsel thereupon," and to submit their own recommendations, if they think fit.

The part relating to the Central Council contains no limits: it might therefore be argued that it applies only to the Colony; but perhaps it is intended to apply to the Protectorate.

Part II., relating to provincial and district councils, is in terms limited to the Protectorate. The principal or ruling chief is president, and the council is wholly native, unless the chief calls in the resident European officer to preside. The powers of the council are very wide. Every such council has "power to deal with all matters of internal administration or business affecting the people and area over which it possesses authority; and shall be responsible for the preservation of power, the administration of justice, and the protection and management of trade and industry over such area."

Town or village councils are appointed either by the provincial council or by the Governor.

4. SIERRA LEONE.

Ordinances passed—35.

Criminal Law.—Appeal provisions of a somewhat novel character appear in Ordinance No. 14, an Ordinance "to provide for the more speedy remedying of errors committed by district commissioners in the exercise of their

jurisdiction in criminal matters." The preamble recites that convictions before these commissioners at present cannot be set aside except on appeal lodged within eight days after the conviction. Every district commissioner is to send to the Chief Justice "at the expiration of every month" a complete list of all criminal cases decided during the month, setting out the name of the defendant, the offence charged, the date of the conviction (if any), the Ordinance under which the conviction was made, the punishment awarded, and the prisoner's place of detention.

This list is to operate "as an appeal" on behalf of every convicted person named in the list, and the Chief Justice may, "without hearing any argument," reverse or amend any judgment given contrary to law.

The Chief Justice may order "further particulars" to be submitted, but it is by no means clear whether these particulars include the evidence—an interpretation which would very seriously enlarge the scope of the so-called appeal.

Putting aside this power to require further particulars, we should regard the law as providing no appeal on fact, and only a limited appeal on law. The Chief Justice, with such a list before him as is above described, could only decide whether the statutory offence had met with the statutory penalty. The proceeding seems to be miscalled an appeal; it more resembles the revision of sentences under the Criminal Procedure Code of India.

The Chief Justice may also set aside the judgment, "and order an entry to be made in the minutes of the district commissioner's Court that in his judgment the person convicted ought not to have been convicted." It seems quite impossible that any Chief Justice could make such an order on the materials presumably before him.

Tariff.—Two years ago a protest was made in this Journal against the customs tariff of some of the West African Colonies, principally Gambai and Sierra Leone. In 1900, exemptions were accorded to mathematical, scientific, and surgical instruments, newspapers, and tombstones! The legislation of 1901 (Ordinance No. 17) shows an advance by exempting "tools, implements, and materials imported by miners or prospectors, for their *bona fide* use in mining," etc.

Administration.—By Ordinance No. 21 the curator of an intestate's estate or any person cited by him, or claiming any interest in the property of an intestate, is authorised to apply by petition to the Chief Justice in court or in chambers "for his opinion, advice, or direction," in any question respecting the possession, management, or disposal of the property, pending any order for the administration or sale of the property, or pending any action or suit for the determination of the ownership. The curator or other person applying is indemnified from the consequences of acting on the advice or direction of the Chief Justice.

Another Ordinance (No. 13) deals with the estates of civil servants, not being natives. On the death of such civil servants, testate or intestate, the

Governor may appoint a "committee of adjustment," whose first duty is to make an inventory of the property in the Colony, and provide for the payment of the "preferential charges." These are death and funeral expenses, house rent, servants' wages, and household expenses for the last month. If the representatives of the deceased pay or give security for the payment of the preferential charges, the committee do not further intervene. If and when the committee do act, they may collect the whole property, pay the charges, and hand over the residue to the Treasurer, who remits the balance to the Crown Agents for payment to the legal personal representatives in this country.

West Africa Frontier Force.—The preamble of No. 22 recites that "it is intended to establish a military force in West Africa to be called the West Africa Frontier Force," and "it is intended that the Sierra Leone Frontier Police shall henceforth be known as the Sierra Leone Battalion of the said force." The battalion is to comprise as many companies of infantry and artillery as the Governor may from time to time direct.

The Ordinance repeals five previous Ordinances passed between 1890 and 1899, and may be taken as the latest model of the military law for an African colony or protectorate. The Army Act applies (*a*) at all times to the European officers and non-commissioned officers; (*b*) to the native non-commissioned officers and privates while on active service. Part III. provides a code of punishments and discipline for the rank and file while not on active service.

The Ordinance concludes with provisions as to the wills and property of deceased soldiers. Every soldier is required on enlistment to register the name of a person to whom (in case of his dying intestate) his pay and property are to be paid and delivered. Valid wills may be made attested by one witness, being an officer, magistrate, or medical officer. Pay and property, if of less aggregate value than £50, may be handed over by the paymaster or officer direct to any person entitled under the will, or to, in any case of intestacy, the registered person. In the course of this administration the debts of the deceased are paid only so far as they occurred within three years before the death, and are claimed within one year after.

Lands for Military Purposes.—The Secretary for War may appoint an officer to take the necessary steps for the acquisition of land for military purposes. He marks out the boundaries, serves notice on the owners, and the land is entered upon and appropriated. Compensation for the land taken or for any lands injuriously affected is to be settled in case of dispute by the Chief Justice.

Wild Animals' Protection.—An Ordinance (No. 30) carries out the recommendations of the International Convention for the preservation of wild animals, by enabling the Governor to make regulations respecting particular classes of animals, close seasons, etc.

Murder Societies.—The law passed in 1896 for the suppression of the

"Human Leopard Society" was noticed in our review of the legislation of that year. The preamble of Ordinance No. 29 of 1901 now recites that a Human Leopard Society and an Alligator Society formed for the purpose of committing murders exist principally in the Ronietta district of the Protectorate, and that many murders have been recently committed there. The "plant" used by these societies is described in the schedule thus: (*a*) leopard skins "shaped or made so as to make a man wearing the same resemble a leopard"; (*b*) alligator skins shaped or made so as to make a man wearing the same resemble an alligator; (*c*) a knife with two or more prongs, commonly known as a "leopard knife" or an "alligator knife"; and (*d*) the native medicine commonly known as "Borfima"[1] or any medicine of a like nature.

The law of 1896 made the possession of these articles a criminal offence. Now the powers of search for them are strengthened; and suspicion that these murders are committed with the cognisance of the chiefs is shown in the clauses directed against chiefs. Any chief who encourages or abets the celebration in any village of any "customs" of the proscribed societies, or fails to report the same to the police, is liable to a fine of £500 or imprisonment for a year. A still stronger measure is a power conferred on the Governor in Council to order the arrest and detention of "any such chief or sub-chief as may be deemed expedient for the maintenance of peace and order and the suppression of the Human Leopard Society and Alligator Society." Any such chief may also be deported by the Governor. The Ordinance was to be on trial until the end of 1902.

Protectorate Government.—The Protectorate, or great Hinterland of the Colony, where justice must for the present be administered with freedom from technicalities, has a judicial constitution and fiscal arrangements apart from that of the Colony. The principal provisions have already been described in our review of the legislation of 1897. Those provisions, with the subsequent and new amendments, are now consolidated in the Protectorate Ordinance, 1901. Some changes are made in the arrangements for the collection of the house tax, and with respect to concessions from natives this useful provision is made:—

> No document shall be received in evidence in any Court of the Colony or Protectorate which purports to be a grant or other disposition of any land within the Protectorate or to be a grant of any right to mine or to collect rubber, kernels, kola-nuts, or other produce, or to cut timber thereon or to collect ivory, or of other rights affecting land, to any person other than a native, unless such document shall have received the provisional recognition of the Governor.

[1] Mr. Alldridge in his *Sherbro and its Hinterland*, 1901, interprets "Borfima" as *Boreh fima* (medicine bag), and states that it is "a solid preparation, apparently harmless in itself until anointed with human fat, when it becomes an all-powerful fetich. Of course to obtain human fat, people must be killed, and to procure victims the notorious Human Leopard Society was formed." Much curious learning on fetich and the secret societies will be found in Mr. Alldridge's book.

Unless the document is approved within one year from the making thereof, it is null and void.

Private and Local Ordinances.—Under this head may be classed an Ordinance (No. 31) to enable a Belgian company, the Flandria Coloniale Société Anonyme, to hold real property in the Colony; another (No. 34) to amend the Freetown Municipality Ordinance, 1893; and a third (No. 35) to enable the Government to construct waterworks for the supply of Freetown.

5. SOUTHERN NIGERIA.

Proclamations—28.

Wild Animals' Protection.—The proper legislation is provided by No. 8 for carrying into effect the recommendation of the International Convention for the protection of wild animals in Africa.

Shipping Casualties.—A law (No. 9) providing for enquiries into shipping casualties on the coasts of the Protectorate seems to be in the form now rendered familiar by the Merchant Shipping Act.

West Africa Frontier Force.—The Proclamation providing for the Southern Nigeria contingent of this force is in the same terms as the Ordinances of the Gold Coast and Sierra Leone.

Criminal Procedure.—The Proclamation of 1900, which was noticed at some length in our last year's review, is amended in some material directions (No. 12). First, the provisions of the Territorial Waters Act are enacted so as to enable the Court to try offences committed by foreigners within the territorial waters of the Protectorate. Secondly, full provisions are made for the cases where a defendant is alleged to be of unsound mind at the trial, or to have been so at the time of the commission of the offence. Thirdly, provision is made for the holding of an enquiry, where it appears that an offence has been committed but no person is charged. This is, in fact, the clause of Sir J. F. Stephen's Criminal Code. Fourthly, the procedure by *nolle prosequi* is prescribed. Fifthly, amendments are made in the mode of trial. Persons charged with serious crimes (including capital) may be tried by special commission in parts of the country where there may be difficulty in arranging for a session of the Supreme Court; and persons charged with a capital offence who are not to be tried by such special commission must be tried with assessors. The High Commissioner may order that any class of offences, other than capital, must be tried with assessors, unless they are appointed to be tried by special commission. Sixthly, the jurisdiction of the coroner is practically transferred to the Court which holds preliminary examinations, and the two procedures are blended. The Court in holding an inquest proceeds in the same way as if it were holding a preliminary enquiry; if during the inquest a person is accused, the inquest becomes a preliminary enquiry. If no person is charged, the

Court makes a report to the Supreme Court. There is, in fact, no place for the English coroner and his jury in a country supplied with a paid magistracy.

Commissioners of Districts.—The Proclamation of 1900 is amended, and provision is made for issuing judicial warrants to those commissioners who are the chief executive officers of districts; and for the appointment of deputies, also with judicial powers (No. 14).

Public Officials' Protection.—The provisions of the Public Officers' Protection Act are applied to the Protectorate, with modifications (No. 15).

Registration.—Three Proclamations deal with registration. There is established a general Registry (No. 16), with power to appoint a Registrar-General, the Attorney-General holding the office until a special appointment is made. In the principal Registry is centred the registration of lands, instruments and marriages (Nos. 16 and 18), and of births and deaths (No. 17).

Trade Marks and Patents.—The Patents Proclamation of 1900 (No. 27) is amended by provisions for the establishment of a separate Patents Office under a Registrar of Patents, who apparently is independent of the Registrar-General (No. 19). In like manner the Trade Marks Proclamation, 1900 (No. 25), is amended by No. 20.

Native Courts.—An important law for the administration of justice to natives provides for the establishment in each district of a native council (No. 25). The council consists of the district commissioner and such other member or members as the High Commissioner may appoint. Under the native councils are minor Courts. The native council and minor Courts are to have jurisdiction in civil and criminal cases to which native law applies and in which natives are the parties. They have no jurisdiction over non-natives, except with consent. The civil jurisdiction of the native council is restricted to cases in which debt, damage or demand, or the value of lands in dispute, or the property of a deceased person requiring to be distributed, does not exceed £200. In criminal matters the offence must be one which would be adequately punished with imprisonment for two years with a flogging of fifteen strokes, or imprisonment for one year with a fine of £100. Minor Courts have jurisdiction in civil suits up to £15, in succession matters when the value of the whole property does not exceed £50. In criminal matters the offence must be one which would be adequately punished with imprisonment for six months with a flogging of fifteen strokes, or for three months with a fine of £25. The jurisdiction of these native Courts may be further restricted by order of the High Commissioner.

Cases brought in the regular Courts may be referred to the native Court, where this course seems proper.

Counsel and solicitors are not to appear in the native Courts without leave of the Court. On the other hand, the Court may permit a party to be represented by the husband or wife, guardian or master, etc.

Appeals lie from the minor Court to the native Court, and from that Court (with the leave of the district commissioner) to the Supreme Court.

The district commissioner may stay any case in a native Court and transfer it to the district Court or the Supreme Court.

This Proclamation takes the place of the Native Courts Proclamation, 1900, which is repealed.

Native Home Rule.—In connection with the native Courts the next law (No. 26) is an interesting confirmation under Protectorate legislation of native customary law. The "head of a house" seems to be more than a *paterfamilias*, a "house" being defined as "a group of persons subject by native law and custom to the control, authority, and rule of a chief known as a head of a house." A member of a house is "a person who by birth or in any other manner is or becomes subject to the control, authority, and rule of a head of a house."

It is a punishable offence for a "member" to refuse or neglect to submit himself to the control and authority of his head; likewise for a head to neglect his obligations under native law towards the members of his house.

All proceedings for these offences, and other proceedings under the Proclamation, are to be taken before the district commissioner, who may, if he thinks fit, refer any matter to a native Court.

A member of a house indulging in vagrancy may be haled before the commissioner and questioned as to his house. Notice is then given to the head, who may take proceedings against the member.

In any proceedings for the enforcement of the obligations existing between heads and members of houses, either party may be released from further obligation by a money payment or fulfilment of conditions approved by the commissioner.

A member of a house may not be employed by a European or another native without the consent of the head.

Forestry.—A Forestry Proclamation (No. 28) places full powers of regulating native wastes and forest reserves in the hands of the High Commissioner. It has, doubtless, been found impossible to frame a general law for the varying needs of a great country. The wisest course is to try the effect of different regulations to meet the varying needs, and thus by degrees to discover what restrictions and regulations can be made general.

6. NORTHERN NIGERIA.

Proclamations—12.

Arms and Ammunition.—The first Proclamation of the year is one to carry out the requirements of the General Act of the Brussels Conference, 1890, for restricting the importation of arms and ammunition within the

zone described in the eighth article of the Act. The Proclamation to a large extent follows the wording of the Brussels Act.

Slavery.—The abolition of the legal status of slavery by a Proclamation of the Royal Niger Company of March 6th, 1897, is confirmed by No. 2. The enslaving of natives is declared illegal, and natives are rendered liable to penalties for engaging in slaving transactions. Non-natives are to be liable to the same penalties as British subjects—*i.e.*, presumably the penalties prescribed by the Imperial Slave Trade Acts. No claims for compensation to owners are to be recognised in respect of slaves who may acquire their freedom under this law.

Commissions of Enquiry.—Power is taken (No. 3) to appoint commissioners to enquire into the conduct of any public officer or any native king or chief, with powers of examining on oath, calling for papers, etc. Reports are to be sent in to the High Commissioner.

Folded Woven Goods.—The Merchandise Marks Act prohibits the importation of any folded woven goods (except those mentioned in the schedule) unless the folds are at least thirty-six inches in length, and each piece is marked with the number of yards and inches contained therein. The large number of exceptions in the schedule comprise "silks, silk velvets, tweeds, handkerchiefs, broadcloth, worsted cloth, Indian bafts, cashmeres, serges, alpaca, silesia, linen and cotton drills, khaki drills, tabourettes, gold and silver cloths, tinsel woven cloths, damasks, and flannels."

Land Registration.—A Land Registry is established by No. 10. The law is on the same lines as the corresponding law for Southern Nigeria, but there are some differences in detail. In a matter of this character, when both Protectorates were working upon comparatively clean slates, it would have been prudent for the two Governments to have conferred together and settled uniform laws. A few of these differences may be adverted to: (1) In the Northern Nigeria law a duplicate of the plan of the land (which in most cases must be annexed to the instrument) must be supplied for the registration; in the Southern Nigerian law there is no such provision. (2) In Northern Nigeria, instruments executed either before or after the date of the Proclamation take effect as from the date of registration, whereas in Southern Nigeria instruments executed before take effect from the date of execution if registered within twelve months, and those executed after also take effect as from date of execution if registered within ten days (if executed at a place where there is a registry), within sixty days (if executed elsewhere in the Protectorate), or within twelve months (if executed outside the Protectorate). (3) Wills take effect as from date of registration in Northern Nigeria, whereas in Southern Nigeria they take effect as from the death of the testator if registered within sixty days (if the death occurred in the Protectorate), or within eighteen months (if the death occurred elsewhere). (4) In both Protectorates original wills must be proved by one of the subscribing witnesses; this applies also to probates in Southern Nigeria, whereas in Northern Nigeria probates can

be registered without proof. (5) In Northern Nigeria, a judgment has apparently to be registered by copy of the whole, whereas in Southern Nigeria it is registered by memorial.

The reference made above to instruments made outside the Protectorate shows an intention to permit land to be thus conveyed. A different law prevails in other Colonies—Ceylon, for example, where the law is that land cannot be conveyed (except by will) otherwise than by conveyance executed in the country. This rule has many advantages: the Courts never have to interpret foreign-drawn deeds; the document to be registered is confined to the land situate in the Colony. There seems to be no provision in either Proclamation for registration of part of an instrument.

Wearing of Uniforms.—The wearing of the uniform of any of his Majesty's naval or military forces by a person not belonging thereto is prohibited (No. 11), as also is the wearing of the dress of the police or civil officers of the Protectorate.

The Government of Northern Nigeria seem to be much exercised on this subject of uniform, as the very next Proclamation (No. 12) imposes penalties on any person "who not being a soldier or a constable wears any garb or carries any token resembling any garb or token carried by a soldier or constable" (s. 3), and then proceeds to impose heavier penalties on persons who, wearing the garb of a soldier or constable, commit any act of extortion or violence (s. 4).

Registration of Deaths.—There is a short Proclamation (No. 5) providing for the notification and registration of deaths of non-natives. The time has not arrived for the extension of this law to the native population.

VII. SOUTH ATLANTIC.

1. FALKLAND ISLANDS.

[*Contributed by* MICHAEL H. RAFFERTY, ESQ.]

Ordinances passed—10.

Administration of Justice.—No. 4 provides for the administration of justice generally. The Chief Justice of the Colony must be a member of the Bar of England, Scotland, or Ireland, and of not less than seven years' standing, or have been elsewhere a judge. He holds office during good behaviour. The same person may be both Chief Justice and Police Magistrate. The Supreme Court is invested with the jurisdiction exercised in all its divisions

by the High Court in England and by Courts of quarter sessions. Power is given to the Governor to direct the holding of a special Court. A jury of seven is made competent to try all except capital charges. Rules for appeals to the Privy Council are stated.

Trial by Jury (No. 5).—This Ordinance deals with the jury system of the Islands. Juries of seven may bring in a majority verdict of five, after at least two hours' deliberation. The jury *de medietate linguæ* is abolished. In criminal cases only, refreshments may be provided for jurors at the expense of Government. Jurors in civil cases are to receive three shillings for attending court, and for serving five shillings per diem. Crimes and offences may be tried by information.

Scab, etc. (No. 6.).—The spread of infectious diseases in animals is provided against. Inspectors may be appointed, and are furnished with extensive powers of superintendence and for the proper treatment of sheep. Sheep are only to be imported after due notice to an inspector, and the Governor in Council may at any time prohibit importation.

Suspension of Customs Duties (No. 7).—The Governor in Council may temporarily remit the duties of customs on imports.

Licensing Law (No. 8).—This amends the Licensing Ordinance, 1882, and deals with publicans' and billiard licences. Retailers of intoxicating liquors must close their premises on Sundays, except from 12 to 1 p.m. and from 4 to 6 p.m., and on other days from 10 p.m. till 8 a.m. Provision is made for the extension of these hours and for the grant of "occasional licences."

Probate and Administration (No. 9).—The rules concerning probate and letters of administration dealt with by this Ordinance are numerous and important. Real estate is to vest in the executor or administrator in the same manner as personal estate. Administration may not be granted to any person *qua* creditor. The duties of the Official Administrator are set out. The balance of the estate of an illegitimate intestate who leaves neither widow nor lineal descendant may be appropriated for public purposes (s. 48). The balance of the estate of an intestate whose kindred are unknown is to be invested and allowed to accumulate for ten years; after this period claims are barred and the estate lapses to the Government of the Colony.

VIII. NORTH AMERICAN COLONIES.

1. DOMINION OF CANADA.

[*Contributed by* J. A. Simon, Esq.]

Acts passed—Public, 43; Local and Private, 118.

Victoria Day.—No. 12 provides that May 24th (or when that day is a Sunday, the 25th) shall be a legal holiday throughout Canada. The Bills of Exchange Act is amended accordingly by adding this to the non-juridical days.

Payment of Members.—No. 14 substitutes for the existing provision an allowance to a member of either House of ten dollars for each day's attendance, if the session does not extend beyond thirty days; if it does, there is a sessional allowance of one thousand five hundred dollars.

Election Law.—Nos. 15 and 16 amend the Franchise Act and the Dominion Elections Act, respectively, in certain particulars.

Military Pensions.—No. 17 provides for a scale of pensions for officers and men of the Permanent Militia.

Packing and Sale of Fruit and other Produce.—Nos. 26 and 27 are an elaborate Code for regulating the packing and marking of various Canadian products and for fixing standard weights and sizes.

Merchant Shipping.—No. 34 amends existing provisions, prohibiting deck-cargoes of timber, spars, deals, etc., between October and March.

No. 35 provides for enquiries into shipping casualties.

Judges of Provincial Courts.—Nos. 39 and 40 alter the salaries paid to certain of the provincial judges.

Yukon Territory.—No. 41 provides for the appointment of two police magistrates by the Governor in Council for the Yukon Territory.

Criminal Law.—No. 42 amends the Criminal Code by legalising raffles at charitable bazaars, and by providing that on an accusation of cattle-stealing a registered brand or mark on cattle shall be *prima facie* evidence of the registered owner's property in the beasts.

2. BRITISH COLUMBIA.[1]

[*Contributed by* Walter Peacock, Esq.]

Acts passed—87.

Appointment of Agent-General.—The Agent-General Act, 1901 (No. 1), authorises the appointment of an Agent-General for British Columbia to act as representative and resident agent of British Columbia in the United

[1] The Session 1 Edward VII. ended on May 11th, 1901. Of the Acts passed, the first sixty-four are classed as public, the remainder as private Acts.

Kingdom, to hold office during good behaviour at a salary of not less than $10,000 inclusive of office rent and clerical assistance, with authority to exercise the functions of a commissioner under the Oaths Act and of a notary public.

Steam Boilers.—The Steam Boilers Act, 1901 (No. 7), provides for the appointment by the Lieutenant-Governor in Council of a Chief Inspector and such other inspectors as may be deemed advisable to inspect boilers and machinery under the provisions of the Act; whose qualification is that they shall be British subjects with five years' experience as practical machinists, and have passed a satisfactory examination before a Board of Examiners. The duties of the Chief Inspector are to examine specifications of boilers and see if they comply with requirements as laid down in the Act; to examine reports and accounts of inspectors and report to Chief Commissioner of Land and Works; to make an annual report stating number of inspections and accidents to steam boilers, whether by explosion or otherwise. The duties of inspectors are to make internal and external examination of all new steam boilers within their district, and at least once a year afterwards, and to see that competent men are in charge of boilers before a certificate of inspection is granted. Engineers are classified in five grades and may obtain certificates from the Chief Commissioner of Lands and Works after having satisfied the Chief Inspector as to their competency.

Protection of Children.—By the Children's Protection Act (No. 9), it is the duty of the Superintendent of Police to provide for the visitation of children in temporary or foster-homes, and to see that a record is kept of all children placed out in foster-homes, and of all particulars connected with each case. The Act provides for the apprehension of neglected children under fifteen years of age by any officer, constable, policeman, or officer of any children's aid society approved by the Superintendent of Police, and any child so apprehended may be ordered, after examination before the judge, to be delivered to a children's aid society, to be sent to their temporary home until placed in an approved foster-home. In certain cases the Attorney-General may cause such child to be removed to an industrial home for a period not exceeding three years. The Act does not relieve any person from liability to contribute to the maintenance of the child, but the fact of contributions shall not deprive the society which is the legal guardian of the child of the powers and rights conferred by the Act. The incorporation of children's aid societies is provided for, and municipal councils are empowered to make by-laws to prevent children being in the streets after night-fall.

Attachment of Debts.—The Small Debts Act Amendment Act, 1901 (No. 13), enables "a plaintiff at the time of issuing a summons for a debt or at any time after previous to judgment, upon filing with the magistrate who issued the summons an affidavit verifying the debt and stating that a third person or garnishee is indebted to the defendant and is

within the Province," to obtain a summons for the payment to him of the amount of the debt due to the defendant from the garnishee.

The Supreme Courts Act Amendment Act (No. 14) contains amendments with regard to the attachment of debts, and enables the debts or liabilities of garnishee or judgment debtor to be attached.

Creditors' Trust Deeds.—No. 15 enacts that every assignment for the benefit of creditors shall be deemed valid if its construction and effect accord with its purpose, and shall not be set aside or defeated on any account whatsoever except actual fraud, notwithstanding any statute or law to the contrary. A counterpart of every such assignment shall be registered within twenty-one days from the date thereof in the office of any county court registrar, and notice of the assignment must be published by the assignee in one issue of the British Columbia *Gazette* and of one county newspaper. Assignments when registered in any land registry office under the provisions of the Torrens Registry Act, 1899, shall take precedence of all certificates of judgments and executions and attachment against land and against goods not completely executed by payment, subject to a lien for the cost of such judgment or execution creditors. It is the duty of the assignee within five days of the assignment to call a meeting of creditors for giving directions with reference to the disposal of the estate, and every person claiming to be entitled to rank on the estate assigned must furnish particulars of his claim to the assignee.

Demise of the Crown.—The Demise of the Crown Act, 1901 (No. 17), renders unnecessary the renewal of commissions or appointments by virtue whereof any public functionary in the Province held or exercised his office or profession and the oath of allegiance to the new Sovereign.

Husband and Wife.—The Deserted Wives' Maintenance Act, 1901 (No. 18), provides that any married woman deserted by her husband may summon him before any stipendiary or police magistrate, or two justices of the peace, who, if satisfied that the husband, being able to maintain his wife, has wilfully refused or neglected to do so, and has deserted his wife, may order him to pay her a weekly sum not exceeding twenty dollars, recoverable by distress. No order for payment of any sum by the husband may be made in favour of a wife who is proved to have committed adultery, unless the adultery has been condoned. Where adultery has been proved, the judgment shall not be evidence of adultery except for the purpose of proceeding under this Act.

Voting: Exclusion of Indians.—The Provincial Elections Act Amendment Act, 1901 (No. 22): "No Indian shall have his name placed on the register of voters for any electoral district or be entitled to vote at any election. Any collector of voters who shall insert the name of any Indian on any such register shall, upon being convicted thereof before any justice of the peace, be liable to a penalty not exceeding fifty dollars."

Explosives.—The Explosives' Storage Act Amendment Act, 1901 (No. 23),

permits under certain conditions powder magazines to be kept within a city or town where mines are actually existing, or become established in any city or town, or within two miles of the limits thereof.

Fisheries Board.—The British Columbia Fisheries Act, 1901 (No. 25), provides for the appointment of a Board of Fishery Commissioners to act as an advisory board to the Lieutenant-Governor in Council in the framing of regulations for the better management, conservation, and regulation of all fisheries over which the Legislature of British Columbia has authority to legislate, to prevent or remedy the destruction and pollution of streams, the destruction of fish, and to forbid fishing except under the authority of leases or licences. The taking of fish in Provincial waters, except to secure sufficient supply for personal or family use, by any means other than angling is forbidden without lease or licence. The buying, selling, or possessing fish in close season is prohibited, and provision is made for the setting apart of waters for the natural or artificial propagation of fish.

Maternity Boarding-Houses.—No. 29 regulates maternity boarding-houses and the protection of infant children. Part I. provides for the registration by municipal councils of houses for the reception of infants, and of persons applying to keep such houses, and prohibits more than one infant, except in case of twins, under the age of one year, being received for the purpose of maintenance or nursing apart from parents for a longer period than twenty-four hours, except in a registered house. Name, sex, and age and other particulars of every infant are to be registered by the person under whose care it is placed. Part II. prohibits the keeping of maternity boarding-houses unless registered, and may be put in force by by-law by any municipal council properly incorporated.

Crown Lands: Records of Pre-emption.—The Land Act Amendment Act, 1901 (No. 30), enables the Chief Commissioner of Lands and Works, when authorised to do so, to grant records of pre-emption of Crown lands divided into small holdings not exceeding forty acres in extent to any of his Majesty's subjects for personal occupation and cultivation for agricultural purposes.

Public Loans for Railways, etc.—The British Columbia Public Works Loan Act, 1901 (No. 32), authorises a loan of $5,000,000 for the purpose of constructing railways, roads, and other public works with a view to affording increased facilities for prospecting and developing the Province generally.

The Temporary Overdraft Act, 1901 (No. 33), authorises the Minister of Finance to make arrangements with any bank or banks within the Province with a view to obtaining moneys in the interim of exercising the borrowing powers of any of the Loan Acts by way of temporary advances or overdrafts without the issue of any form of debenture, bond, or Treasury scripts.

Mines.—The Coal-Mines' Regulation Act Amendment Act, 1901 (No. 36), prohibits persons being employed as coal-miners, fire bosses, overmen, and shot lighters in any coal-mines who have not a certificate of competency.

Provision is made for a Board of Examiners. The qualifications necessary for a coal-miner's certificate are a sufficient knowledge of the English language, the methods of, and the Acts relating to, coal-mining, and twelve months' previous employment in a coal-mine; and a shot lighter, fire boss, or overman must possess in addition a good knowledge of the character and effects of explosives.

The Inspection of Metalliferous Mines Act Amendment Act, 1901 (No. 37), provides for a monthly return of output of every mine to be sent to the Department of Mines and amends the code of mine signals.

Roads.—The Municipal Clauses Act Amendment Act, 1901 (No. 39), regulates the maintenance of inter-municipal roads and provides for the settlement of differences and the erection of inter-municipal bridges.

Taxes.—The Revenue Tax Act, 1901 (No. 46), imposes an annual revenue tax of three dollars on every male person except militia-men and those over the age of sixty whose last yearly income did not exceed $700. Every employer of labour is to pay the tax for his employees and to deduct the amount from wages.

Hospitals.—The Royal Columbia Hospital Act, 1901 (No. 47), provides for the carrying out of certain additions, alterations, and improvements of the Hospital, including amalgamation with the Women's Hospital of New Westminster.

Bakeshops.—The Shops' Regulation Act, 1900, Amendment Act, 1901 (No. 49), provides that bakeshops be constructed and kept in a sanitary manner, regulates the hours of labour, prohibits the employment of consumptive and scrofulous persons, and between the hours of 9 p.m. and 5 a.m. of persons under eighteen, and persons under fourteen years must not be employed in a bakeshop at all.

South African Volunteers.—The South African War Land Grant Act, 1901 (No. 51), provides for the recognition of the volunteers from British Columbia who have served in South Africa by grants of land in addition to pay and allowances.

Taxation: Assessment of Corporations.—The Assessment Act Amendment Act, 1901 (No. 56), amends the principal Act with regard to the taxation of the income of banks and other corporations doing business in the Province.

Wood Pulp.—The Wood Pulp Act, 1901 (No. 67), in order to encourage the manufacture of wood pulp and paper, grants privileges as regards water rights to companies erecting pulp or paper mills.

3. MANITOBA.[1]

[*Contributed by* H. Stuart Moore, Esq.]

Acts passed—62.

Dairy Produce.—No. 8 provides that all packages of butter or cheese are to be branded with a registered brand, containing the name and address of the factory or dairy at which it was made and shipped.

Elections.—No. 11 provides the machinery for the general election of members to the Legislative Assembly. This Act contains 311 sections. Any person may be elected to the Assembly, except those who are not at least twenty-one years of age, of the male sex, British subjects by birth or naturalisation, registration clerks or revising officers, or persons who have been guilty of corrupt practices. The electors must be males of full age, British subjects by birth or naturalisation, and have resided within the Province for one year, and for three months in the electoral division before the commencement of the registration of electors. Persons unable to vote are: judges of the King's Bench or county courts, Indians receiving an annuity or treaty money from the Crown, persons disqualified for corrupt practices, lunatics, prisoners, and any person not a British subject by birth who has not resided in some portion of the Dominion of Canada for at least seven years, unless such person is able to read any selected portion of the Manitoba Act in either English, French, German, Icelandic, or any Scandinavian tongue. The voting is by ballot.

Statute Law Revision.—No. 44 empowers the Lieutenant-Governor in Council to issue a commission under the Great Seal to two or more persons to revise and consolidate the laws of the Province.

Appropriation.—Nos. 49 and 50 provide $1,184,411 for the expenses of the Civil Government and public service of the Province.

Amending Acts.—The other Acts of this session were almost entirely confined to short amendments of previous Acts.

4. NEW BRUNSWICK.[2]

[*Contributed by* H. Stuart Moore, Esq.]

Acts passed—105.

Appropriation.—No. 1 provides the funds for the expenses of the Civil Government of the Province to October 31st.

Bankruptcy.—No. 3 abolishes the priority amongst execution creditors.

[1] The Session commenced on February 21st, and ended on March 29th, 1901. Of the Acts passed, fifty-four were classified as public, but seven of these would be treated in the United Kingdom as local.

[2] The Session commenced March 6th, 1902. Of the Acts passed, forty-three were public, forty-five local, and seventeen private.

In the event of the property of the debtor not being sufficient to pay every one, it is to be divided rateably amongst the creditors after payment of the costs of the creditor at whose instance execution was had.

Trustees.—No. 4 enables trustees and executors to invest trust funds in any duly chartered bank in Canada, in Government of Canada stocks or stock of this Province, in first mortgages on land held in fee simple, and debentures of certain companies.

Standard Time.—No. 5 adopts the Atlantic standard of time for the Province—*i.e.*, the time at the sixtieth meridian of longitude.

Public Parks.—No. 6 provides for a public park to be made, in some portion of the Province, covered with forest and not exceeding 900 square miles in extent. It is to be used as a public park and forest reservation, fish and game reserve, and health and pleasure ground for the people of the Province. This park is to be under the control of the Department of Crown Lands, and the Lieutenant-Governor in Council is given full powers to make all necessary rules for carrying out the intention of the Act.

Demise of the Crown.—No. 8 enacts that in future the Legislative Assembly shall continue for five years and two months from the day of the writ of summons unless sooner dissolved, and shall not be affected by a demise of the Crown.

Evidence.—No. 18 orders that in future all proclamations and orders of the Lieutenant-Governor in Council and the publication thereof shall be judicially noticed in the Province.

Public Health.—No. 33 amends the Public Health Act by requiring all children on entering a public school to satisfy the head teacher that they have been successfully vaccinated within three years, or that they are immune. All persons have to be vaccinated, and the officer of the Local Board of Health may use such force as may be necessary to vaccinate any person who refuses to be vaccinated.

Coronation.—No. 42 provides for the expenses of the Premier at the Coronation ceremonies in June.

5. NORTH-WEST TERRITORIES.[1]

[*Contributed by* H. Stuart Moore, Esq.]

Ordinances passed—25.

Appropriation.—No. 1 provides funds for the Government of the Province for the ensuing year.

Legislators.—No. 2 forbids members of the Assembly to be contractors with the Government under a penalty of $500.

Public Health.—No. 4 provides for the care and isolation of persons

[1] The Session commenced on March 20th, 1902, and ended on April 19th. Of the Ordinances passed, fourteen would be treated in the United Kingdom as local and private.

having any infectious or contagious disease. On every door of every house where there is a person with a contagious disease, a notice must be affixed. All cases of tuberculosis must be reported by the medical practitioner in attendance, and the houses which contain such patients must be properly disinfected.

Wild Birds' Protection.—No. 11 is for the protection of useful birds. No person may hunt or kill any birds whatsoever except crows, eagles, goshawks, pigeon hawks, duck hawks, cooper's hawks, hawk owls, blackbirds, cow-birds, grackles, English sparrows, loons, cormorants, pelicans, mergansers, and such birds as are dealt with in the Game Ordinances. With the permission of the Commissioner of Agriculture a yearly licence to procure birds for scientific purposes may be obtained.

6. PROVINCE OF ONTARIO.

[*Contributed by* JAMES S. HENDERSON, ESQ.]

Acts passed—112, of which 68 were Local or Private.

Elections.—No. 2 amends the Ontario Voters' Lists Act by allowing any one who will attain the age of twenty-one within thirty days from the day fixed for hearing appeals, and who possesses the other necessary qualifications, to apply to have his name inserted in the voters' list, but no person has the right to vote who is not of the full age of twenty-one.

No. 3 amends the Ontario Election Act by making it an offence for any person to procure the appointment of deputy returning officer by false pretences or other improper means, or who acts as such officer without lawful authority. It is also made an offence for a deputy returning officer or poll clerk to wilfully miscount the ballot papers or make up a false statement of the result of the voting.

Arbitration.—No. 5 amends the Act respecting the settlement by arbitration of accounts between the Dominion and the Provinces of Ontario and Quebec, and between these two Provinces, by providing that the arbitrators shall determine all questions of fact and law, that their decisions as to questions of fact are to be final, but their decisions on questions of law, including the question whether any matter presented to them is one of law, are to be subject to appeal to the Supreme Court of Canada and thence to the Privy Council, should his Majesty be pleased to entertain the appeal.

Land Grant to Volunteers.—No. 6 provides for the appropriation of land for those who served in the South African war or in the militia in defence of the frontier of the Province in 1865-6 and 1870.

Succession Duty.—No. 8 amends the Succession Duty Act in several particulars. It defines "aggregate value," "dutiable value," and declares that in arriving at the dutiable value of the estate of a deceased person

the value is to be taken as at the date of the death, and allowances are to be made for reasonable funeral expenses and for the deceased's debts and encumbrances. Any debt or encumbrance for which an allowance is made is to be deducted from the value of the land or other property, but no allowance is to be made (*a*) for debts or encumbrances incurred or created by the deceased unless incurred or created *bona fide* for value and for the deceased's own use and benefit, and to take effect out of his interest; (*b*) for any debt in respect of which there is a right to reimbursement, unless such reimbursement cannot be obtained; (*c*) more than once for the same debt or encumbrance charged upon different portions of the estate; (*d*) for the expenses of administration (except surrogate fees) or execution of any trust created by the will of the testator. S. 8 makes provision for the payment of duty in respect of future or contingent estates or interests.

Sugar Beet Industry.—No. 11 appropriates $225,000 as a special fund for encouraging the growth of sugar beets and the establishment of factories within the Province for the manufacture of refined sugar therefrom.

Statute Law Amendment (No. 12).—This is an "omnibus" Act to amend the statute law in various particulars.

Limitation of Actions.—S. 9 places the Crown in the same category as its subjects in respect of actions for penalties, damages, or sums of money given by any Statute; these must be commenced within two years after the cause of action arose.

Appeals to Court of Appeal.—S. 11 allows appeals to the Court of Appeal from decisions of general sessions allowing or dismissing appeals thereto under the Ontario Summary Convictions Act, without giving security on the appeal to the Court of Appeal, provided the Attorney-General for the Province certifies that a question of law of sufficient importance is involved.

Master and Servant.—S. 14 amends the law on this subject by enacting that where a person enters into an agreement under which he receives as an advance of wages, money, food, lodging, or railway or steamboat tickets, and thereafter, without his employer's consent, leaves his employment before repaying such advances, he shall be liable on summary conviction to a penalty not exceeding twenty-five dollars, or in default to imprisonment for a period not exceeding thirty days.

Solicitors.—S. 15 gives a solicitor or counsel whose remuneration is paid wholly or partly by salary the right to recover costs as if he were not paid by salary where the costs are payable to him as part of his remuneration in addition to his salary.

Mines, Actions relating to.—S. 17 provides that in actions against British subjects on foreign judgments respecting or arising out of mines or mining matters, any defence that might have been set up in the original action may be set up in the action on the judgment.

Landlord and Tenant.—S. 27 amends s. 17 of the Landlord and

Tenant Act as to the effect in certain cases of covenants to pay taxes on assessment for local improvement purposes.

Consumption Hospitals.—By s. 28 these are not to be established or kept within 150 yards of an inhabited dwelling except with the consent in writing of the local board of health. Any breach of this provision, after notice to desist, is punishable by a penalty of twenty-five dollars for each day on which, after notice, this offence is continued.

(No. 26 enables municipalities to arrange for the establishment of such hospitals.)

Mechanics' Lien.—S. 30 amends the Mechanics' and Wage Earners' Lien Act by providing that the property upon which the lien given by that Act attaches shall not extend to any public street or highway or to any work or improvement carried out thereon by or on behalf of a municipality.

Public Health.—S. 35 enlarges the powers of medical officers of health in dealing with infected animals, meat, or milk.

Summary Convictions.—No. 13 amends in certain details the Ontario Summary Convictions Act. *Inter alia*, it enables the Supreme Court to provide by rules that no motion to quash any conviction or order shall be entertained unless security for costs is given by the defendant. S. 5 repeals the Statute 5 Geo. II., c. 19 (which deals with appeals to quarter sessions), so far as it was in force in Ontario.

Trustee Investments.—No. 14 amends s. 5 of the Trustee Investment Act in reference to the reserve capital, etc., of incorporated companies in which trustees may invest funds under their control.

Registry Acts.—No. 15 amends the Registry Act by enacting that the Registrar may be directed to provide fireproof fittings for the vaults of his office, and also by providing as to contributions by the Crown as to the cost of plans of land originally granted by the Crown without being sub-divided into lots.

Land Titles.—No. 16 provides for the cancellation of fraudulent entries as to title upon the conviction of the person guilty of the fraud, and meets the case of an innocent party obtaining a charge on the land during the subsistence of a fraudulent entry, by providing that the Master of Titles, instead of cancelling the wrongful entry, may make an entry in the register stating the fact of the conviction, and revesting the land in the rightful owner subject to the charge. S. 2 provides for the entry of persons taking by transmission from an unregistered owner.

Companies.—No. 18 amends in certain particulars the Ontario Companies Act. It enacts, *inter alia*, that the name of a company which has not for three consecutive years made an annual summary and statement of its affairs may be given to a new company unless the defaulting company, after notice, proves that it is still a valid and subsisting corporation.

Road Companies.—No. 20 amends the General Road Companies Act as to proceedings in case of repairs to roads and other matters.

Insurance.—No. 21 amends the Ontario Insurance Act. It defines "unearned premiums," provides as to the proportion of the deposit to be made by non-Provincial friendly societies, as to the division of the insurance money where the beneficiaries designated by the assured have predeceased him, and as to the investment of surplus funds.

Grants to Railways.—No. 22, which appropriates grants out of the Consolidated Revenue for the construction of portions of certain named railways, imposes conditions on such companies, requiring them, for example, to use, as far as practicable, Canadian-built rolling stock, rails made in Ontario or Canada, and to treat their workmen fairly and reasonably in regard to board, provisions, clothing, and other necessaries of life supplied by them, and provide suitable drainage. The Government is given the right to acquire at any time the lines so aided. There is also a provision against the charging of secret special rates, rebates, etc. The railways are also required to carry road-making materials at the actual cost of handling and carriage.

Street Railways.—No. 25 requires every street railway which works any portion of its line by means of electricity to adopt and use in front of each motor-car a fender of a design to be approved by the Lieutenant-General in Council.

Municipalities.—S. 562 of the Municipal Act is amended by s. 19 of No. 12, the effect of which is to enable local authorities to make by-laws as to purchasing or otherwise acquiring harbours, and for selling and conveying same to purchasers.

No. 26 also amends in various respects the Municipal Act. It provides, *inter alia*, for the separation of farm lands from towns and villages, for the election of aldermen and councillors by wards, for the assessment of real property, and confers upon municipalities extended powers of making by-laws. In the case of a city with a population of 50,000 or more, the council may by by-law authorise the remuneration of the county court judge for his services as a member of the Board of Police Commission. By-laws may also be passed as to the inspection of wires and other apparatus used in connection with the transmission of electricity for purposes of light or power along public streets or highways, or on or in any building within the municipal area; for prohibiting immoral plays and entertainments in theatres, etc., and such by-laws may also authorise the police authorities, upon the written instructions of the chairman of the Board of Police Commissioners, to enter any theatre, hall, or place of public amusement, and if, at the request of the police official, such immoral or indecent play, sketch, or performance is not stopped forthwith, the performers may be arrested without warrant and taken as soon as practicable before a justice of the peace; for prohibiting the conveyance of traffic in any but one direction in narrow streets; for authorising gas, water, or pneumatic transit companies to lay down pipes for the conveyance of water, gas, or merchandise under

streets. The power of councils to make by-laws "for regulating the assize of bread" is amended by the provision that no such by-law is to apply to bread sold in loaves to which are attached labels showing the weight to be not more than the actual weight of the same. The licensing and regulating of laundries may also be dealt with by by-laws; and this species of municipal legislation may also be applied to prohibit the giving of trading stamps and coupons, but this is not to apply to any merchant or manufacturer who places in or upon packages of goods tickets or coupons to be redeemed by him in money or merchandise. The giving of tickets, checks, or coupons by dealers in milk, bread, or other articles of food may also be regulated. Municipalities are also given power to arrange for the establishment of consumption hospitals.

Incorporation of Towns in Territorial Districts.—No. 27 makes provision as to this and for elections in such towns.

Reception of the Duke and Duchess of Cornwall and York.—No. 28 authorises municipalities to include in their estimates and expend such sums as may be deemed prudent in according a fitting reception to their Royal Highnesses during their visit to Canada.

Assessment.—No. 29 deals with the assessment of real property extending over more than one ward in a city or town, and of bridges on international boundaries.

Drainage.—No. 30 allows an appeal from the Referee, acting under the Construction of Drains Act, as to the incidence of the cost of drainage repairs between two or more municipalities, to the Court of Appeal for Ontario, whose decision is to be final. Another section enacts that all applications to set aside or otherwise attack the validity of any report, by-law, etc., relating to drainage works, and the settlement of all disputes thereon, are to be dealt with by the Referee.

Highways.—No. 32 appropriates the sum of $1,000,000 for road improvements and makes provision as to the method of its application.

Tolls.—No. 33 enables local authorities to take steps to secure the abolition of tolls on roads, and prescribes the procedure to be followed in case of failure to arrive by agreement at the amount to be paid to toll-owners for the cesser of their rights.

Sanitary Regulations.—No. 34 enables the Lieutenant-General in Council to make regulations as to sanitary matters applicable only within those parts of the Province which are without municipal organisation.

Factories.—No. 35 amends the Factories Act by imposing in terms upon factory owners the obligation of providing sanitary conveniences. It also makes provision for the separate storage of inflammable materials, for the inspection of boilers, and for the provision of fire-escapes. It further prohibits the commencement of work in factories thereafter to be established, to which this Act applies, until a certificate of inspection has been given by the Factory Inspector.

Shops.—No. 36 imposes upon shopowners the obligation of providing sanitary conveniences, and applies certain provisions of the Factories Act to shops where grinding, polishing, or buffing is carried on. It also limits the hours of labour in bakeshops, and both in these shops and barbers' shops Sunday labour is prohibited.

Fisheries.—No. 37 enables the Lieutenant-General in Council to make regulations for the management of Crown lands leased under the Act and the fishery rights pertaining thereto; and to forbid fishing in any waters within the Province except under licence. No fish or fish spawn is to be taken from Provincial waters for breeding or scientific purposes without the written permit of the Commissioner of Fisheries. The powers of fishery overseers as to the placing, etc., of nets are defined. Records are to be kept by fish companies and fish dealers of the purchases by them of fish taken within Provincial waters, with the date of purchase and the name and address of the seller; such records are to be open to the inspection of the overseers and a monthly abstract furnished to the Fisheries Department. Certain kinds of fish—speckled trout, bass, or maskinonge—taken or caught in Provincial waters are not to be sold, bartered, or trafficked in before July 1st, 1903. Sturgeons are not to be taken without a licence. Wasteful or excessive fishing, likewise fishing during prohibited seasons, involves the cancellation of the offender's lease, licence, or permit.

Education.—A series of statutes deals with this important subject.

No. 38 establishes and defines the powers, etc., of the Department of Education.

No. 39 is the Public Schools Act. All schools established under it are to be free, and open to every person between the age of five and twenty-one. No pupil is to be required to read or study in or from any religious book, or to join in any exercise of devotion or religion, objected to by his or her parents or guardians, but pupils may receive such religious instruction as their parents or guardians desire them to have. Provision is made for continuation classes where there is no high school. The educational machinery—boards, trustees, powers of county councils, and the duties, etc., of teachers—is also dealt with.

No. 40 is the High Schools Act. It deals with their establishment and constitution, the course of study, fees, examinations, and the appointment, qualifications, and duties of teachers.

No. 41 is the University Act, and it deals with the University of Toronto and University College, its property and income, course of instruction, and the federation of other colleges. No religious tests are to be required.

No. 42 amends the Upper Canada College Act by exempting all its property from taxation.

No. 43 amends the Industrial Schools Act by providing that the parents or guardians of a child maintained in an industrial school may be compelled

to recoup the cost incurred by any local authority in respect of such maintenance.

No. 44 enables the Kingston School of Mining to teach additional subjects, empowers two or more townships to grant financial aid to the school, and otherwise makes provision as to its property.

7. PRINCE EDWARD ISLAND.[1]

[*Contributed by* H. Stuart Moore, Esq.]

Acts passed—37.

Highways.—No. 1 repeals the previous Acts relating to public roads, and places the control of all roads, bridges, and highways in the Commissioner of Public Works. Overseers are appointed annually to look to the repair of the roads in their districts. In winter, inhabitants liable to pay road tax can be called out to work at clearing the roads, and must bring their horses if they possess any, but they are not to be taken more than three miles from their homesteads. The road tax is seventy-five cents per head per annum on every male person between the ages of twenty-one and seventy, and twenty-five cents on all horses over three years old.

Taxation.—No. 8 amends the income tax law by making a married woman liable to pay income tax on her separate estate as if she were a *femme sole.*

Bankruptcy.—No. 13 empowers the Court of Chancery to sell real estate of a deceased debtor in payment of his debts.

Intoxicating Liquors.—No. 18 amends the Prohibition Act, 1900, by providing that that Act shall not affect *bona fide* transactions in liquor between a person in this Province and a person in any other part of the world.

Smoking.—No. 19 forbids the sale of tobacco in any form to a minor under sixteen years, and any minor under that age who has in his possession or smokes tobacco is liable to a fine of five dollars or seven days' imprisonment.

Appropriation.—No. 22 makes an appropriation out of the funds of the public Treasury for the different departments of the public service for the ensuing year.

8. PROVINCE OF QUEBEC.

[*Contributed by* Edward Manson, Esq.]

Acts passed—116, of which 39 were Public.

Railways.—No. 2 amends the law respecting the repayment of subsidies by the companies.

Organisation of Departments (No. 8).—This Act empowers the Lieutenant-

[1] The Session 1 Edward VII. commenced on March 19th, 1901. Of the Acts passed, seventeen would in the United Kingdom be considered as private Acts.

Governor to appoint under the Great Seal of the Province, from among the Executive Council, a Minister of Justice under the name of the Attorney-General, a Provincial Secretary, a Provincial Treasurer, a Minister of Colonisation and Public Works, a Minister of Agriculture, and a Minister of Lands, Mines, and Fisheries to preside over the corresponding departments, and defines in detail the functions of a Minister of Lands, Mines, and Fisheries, and of a Minister of Colonisation and Public Works. Further provisions are made for the appointment of deputy ministers.

Liquor Licences.—No. 11 amends the code of law on this subject of 1900 in certain details. Intoxicating liquors are not to be sold in any liquor-shop or by any bottler at any place in the Province on any day of the week from midnight until four o'clock in the morning or during the whole of Sunday, except when there is a special certificate for medicinal purposes.

Game.—The Game Act of 1899 contained very elaborate provisions as to game. Some of these it has been found necessary to alter or add to. No person is in one season's hunting to kill or take alive more than one moose, two deer, and two cariboo.

The close season for widgeon, teal, and wild-duck is fixed.

No person owning a dog accustomed to hunt deer is to allow it to run at large or hunt in any place inhabited by deer between November 1st of one year and October 20th of another. If found at large, the dog may be killed with impunity.

The Act also defines the right of a lessee under a sporting lease by the Commissioner of Lands, Forests, and Fisheries.

Licences to keep cold storage warehouses may be granted by the Commissioner, but such warehouses are to be open to inspection by any gamekeeper of the Commissioner.

Mining Rights (No. 13).—In grants of land by the Crown all mining rights are tacitly reserved and are to constitute a property under the soil independent of that of the surface. A holder of a mining licence or an owner of mining rights on private lands is authorised to work the mines thereon by notice to the surface owner on averring his readiness to pay the damages arising from such mining operations, to be assessed by mutual agreement.

Agriculture (No. 14).—This Act, pursuing the policy of previous Acts in encouraging farmers who show the best kept farms by diplomas of merit, provides for the awarding of a gold medal to him among the so-called "laureates" or winners of diplomas who has most distinguished himself by maintaining perfection in cultivation.

Police.—No. 16 enables every police magistrate or judge of the sessions of the peace to appoint one or more constables if necessary to carry out his orders, and to administer the required oath.

Public Health (No. 19).—This Act provides for the creation of a Board of Health for the Province, to occupy itself with "everything which concerns

public health and salubrity" in the Province. Four at least of its members are to be physicians. The Board is to have power to appoint an inspector of health, analysts, a sanitary engineer, a statistician, and other necessary officers.

The Board is to meet quarterly or oftener. Its duties are—

(1) To make a special study of the medical and vital statistics of the Province;

(2) To make sanitary investigations and enquire into the causes of disease and epidemics, and the effect which the employment, conditions, habits, and other circumstances of the people may have on their health;

(3) To superintend the formation of local boards of health;

(4) To advise municipal councils and local boards;

(5) To distribute to the public circulars on hygiene.

The Board may make by-laws for the sanitary regulation of educational institutions, workshops, hospitals, asylums, houses, dairies, cowsheds, slaughter-houses, etc., for construction of drains, sewers, and for preventing nuisances.

Every municipality which has not already a local board of health is to establish one, and such local board when established is to execute the orders of the Board of Health of the Province. When a municipality is threatened with an epidemic, the Board of Health may insist on the appointment of a medical officer of health, to be paid by the municipality.

The Lieutenant-Governor in Council may at the instance of the Board of Health of the Province appoint medical officers to act in any unorganised territories.

The municipal local board of health is to visit by its executive officer from time to time the immovable property of the district, to discover any nuisances and, if found, to abate them by notice to the owner, who in default is liable to a penalty of one hundred dollars a day.

Plans by any municipality for supplying drinking water or for drainage works must first be submitted to the Board of Health of the Province.

The seller of unwholesome food or drink is liable to a fine of fifty dollars. The health officer of the municipality may further inspect all food or liquid offered for sale which is intended for human consumption.

Householders and physicians are required to report cases of epidemic diseases to the municipal sanitary authority, which again is to notify the Board of Health of the Province. Provision is made for the establishment of hospitals, refuges, houses for quarantine, and for ambulances. The Board of Health is empowered to make by-laws for ensuring the health of persons in industrial establishments, and penalties are imposed for infraction. Districts having, or threatened with, an epidemic may be proclaimed, and a scheme of drastic sanitary regulations enforced in such districts.

Every municipal council may order that vaccination and revaccination

shall be compulsory within the limits of the locality. If a child is unfit for vaccination, it is to be so certified by a medical practitioner.

A fine of five dollars is imposed for non-compliance with vaccination regulations. Returns of births, marriages, and deaths are also provided for.

Municipal Subsidies (No. 28).—No subsidy is to be granted by any municipality to attract within its limits an industrial establishment already established in the Province.

Trade Disputes and Councils of Conciliation and of Arbitration (No. 31).—The policy of this Act—the friendly settlement of disputes between employers and employees—has already recommended itself to the legislatures of New Zealand, New South Wales, and Western Australia.

Councils of Conciliation.—By s. 4 the Lieutenant-Governor may appoint a Registrar of Conciliation and of Arbitration, whose duty it is to receive applications for reference of disputes to a Council of Conciliation. A Council of Conciliation is to consist of four conciliators, two to be nominated by each of the parties to the dispute. A dispute may be referred though only one of the parties lodge an application.

The parties are to draw up a joint statement of the case in writing; if they cannot agree, each party is to draw up a separate statement. The Registrar is then to convene the council, and the council, after taking cognisance of the dispute, hearing the parties and endeavouring to conciliate, is to send a report of the result to the Registrar. If conciliation fails, the parties, or either of them, may proceed to arbitration under the following scheme:—

Councils of Arbitration.—There are to be two of these: one council for disputes between railways and their wage-earners, another council for disputes other than railway disputes. Each council is to consist of three members—one member to be appointed by the employers, another by the employees, and the third by the Lieutenant-Governor on the joint recommendation of the two representative members. Each member is to hold office for two years, and to be remunerated at rates to be fixed by the Lieutenant-Governor in Council.

The representatives of the employers and employees are to be chosen by vote. Every employer in the Province having ten persons in his employment is to be entitled to one vote for his representative, and every trade union, labour council, or organisation of wage-earners is entitled to one vote for the employees' representative. In the case of railways, every organisation representing the interests of railway wage-earners has a vote.

Disputes are to be referred to the Arbitration Councils by an application in a statutory form. The meetings of the Councils of Arbitration are to be public, and the president is, for the purpose of keeping order, to have all the powers of a judge of the Superior Court.

Either party to a referred dispute may at any time before award made agree in writing to be bound by the award.

9. NEWFOUNDLAND.

[*Contributed by* L. S. Bristowe, Esq.]

Acts passed—21.

French Treaties.—No. 1 continues the Newfoundland French Treaties Act (54 Vict., No. 16) to December 31st, 1901.

Revenue.—No. 2 imposes duties on various imported goods. The articles rendered liable to duty, comprising both raw materials and manufactured, are enumerated in Schedule A to the Act under 155 heads. Schedule B contains a list of exemptions. Schedule C contains a list of goods the importation of which is prohibited, and which comprise seditious and immoral drawings or publications, counterfeit coin, goods manufactured by prison labour, reprints of publications copyrighted in Newfoundland, and tea so adulterated as to be unfit for use. Schedule D contains a list of exciseable articles.

Crown Lands.—No. 3 amends No. 13 of the Consolidated Statutes (second series), entitled "Of Crown Lands, Timber, Mines, and Minerals," in various particulars.

Marine Court of Enquiry.—No. 4 empowers the Governor in Council, whenever a shipping casualty (defined by s. 1) occurs, or whenever a charge of incompetency or misconduct on the part of masters, mates, or engineers of ships requires to be enquired into, to appoint a stipendiary magistrate or barrister of ten years' standing to be a Marine Court of Enquiry to make an investigation into the same. An enquiry into a shipping casualty is required to be conducted with assessors. The Court has power in certain circumstances to suspend the certificate of a master, mate, or engineer, and a report of the enquiry is in every case required to be sent to the Governor for transmission to the Board of Trade, and the Board of Trade may order a rehearing. The Act also empowers the Governor in Council to appoint marine inspectors, and repeals No. 116 of the Consolidated Statutes (second series) and 62 & 63 Vict., No. 1, relating to Marine Courts of Enquiry.

Quarter Sessions.—No. 5 repeals 63 Vict., No. 6, entitled "An Act to Amend the Law relating to the Summary Jurisdiction of Magistrates." The Act abolishes Courts of Quarter Sessions and vests their appellate jurisdiction (except where otherwise provided) in the Supreme Court, and their jurisdiction in cases without a jury in a stipendiary magistrate; with or without other justices of the peace, or in two justices of the peace, with a right of appeal to the Supreme Court, and also gives them power to try summarily without a jury various criminal offences.

Newfoundland Railway.—No. 6 amends the Newfoundland Railway Act, 1898, and enacts a number of provisions relative to the establishment and working of the Newfoundland Railway.

Judicature.—No. 7 amends the Judicature Act, 1889, by providing for the appointment of clerks of the Supreme Court, to consist of a Registrar, Deputy Registrar, and others, and prescribing their duties.

Education.—No. 8 amends the Education Act, 1895.

Real and Personal Property Convention.—No. 9 provides for the fulfilment of the terms of a convention between the Imperial Government and the United States as to the disposal of real and personal property.

Oaths.—No. 10 makes an oath binding if taken in any form which the person taking the oath declares to be binding, and provides for an affirmation being substituted for an oath where a person has no religious belief, or where the taking of an oath is contrary to his religious belief.

Insurance.—No. 11 amends No. 105 of the Consolidated Statutes of Newfoundland (second series) entitled "Of Life Insurance Companies."

Elections.—No. 12 amends the Election Act, 1889, by providing that election petitions shall be tried by two judges, and that corrupt practices of a trivial character committed without the candidate's knowledge shall not avoid the election.

District Court Judges.—No. 13 deals with the salaries of District Court judges.

Inflammable Oils, etc.—No. 14 places restrictions on the keeping of gasoline, liquid acetylene, and carbide of calcium.

Beavers and Foxes.—No. 15 provides a close time for beavers and foxes.

Intoxicating liquors.—No. 16 amends No. 131 of the Consolidated Statutes (second series) entitled "Of the Prevention of the Sale of Intoxicating Liquors."

St. John's Municipal Act.—No. 17 amends the St. John's Municipal Act, 1892.

Carbonear Fire Brigade.—No. 18 provides for the establishment of a volunteer fire brigade for the town of Carbonear.

Customs.—No. 19 amends the Customs Act, 1898.

Retiring Allowances.—No. 20 grants certain retiring allowances.

Public Service.—No. 21 makes a grant out of the Consolidated Revenue Fund for the public service of the Colony.

IX. WEST INDIES.

1. THE BAHAMAS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Acts passed—21.[1]

Lotteries (No. 5).—The Lotteries' Prohibition Act, 1901, prohibits gambling and lotteries and the sale of lottery tickets under a penalty not exceeding £100, and the keeping of any place for such purposes under a penalty not exceeding £500.

Education (No. 6).—The Education Act, 1886, Further Amendment Act, 1901, provides that the Educational Department of the Colony shall be under the control of "The Board of Education," consisting of the Governor and twelve members, of whom eight are to be members of the Legislature; and of these, five are to be members of the House of Assembly.

Arms and Munitions of War (No. 11).—The Exportation of Arms Act, 1901, enables the Governor in Council to prohibit the exportation of arms, ammunition, and military and naval stores to any country whenever it may be deemed expedient in order to prevent such arms, etc., being used against the King's subjects or forces.

Shipping (No. 14).—The Sailing Vessels' Passengers' Regulation Act, 1901, provides penalties upon masters of sailing vessels arriving in port with passengers in excess of the number authorised by the Act.

British Subjects (No. 17).—The Public Boards' Qualification Limitation Act, 1901, enacts that only British subjects shall be eligible for appointment or election to any of the Public Boards of the Colony.

2. BARBADOS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Acts passed (1901)—25.[2]

Customs (No. 2).—The Customs Tariff Act, 1901, imposes specific import duties on articles enumerated in Table A of the schedule, and exempts from duties the articles in Table B. It suspends the Customs Tariff Act, 1899, and the Acts amending the same, but such suspended Acts are to be revived when the Convention between His Majesty the King and the

[1] The Acts are numbered consecutively for the regnal year 1 Ed. VII. All Acts are passed for the approval of the Crown by the Governor and the Legislative Council and Assembly of the Colony.

[2] Acts are passed by the Governor, Council, and Assembly of the Island, and are numbered consecutively for the calendar year.

President of the United States for reciprocal trade relations between the United States and Barbados shall come into operation.

Anglican Church (No. 5).—The Anglican Church (Barbados) Amendment Act, 1901, reduces the annual stipend of the Bishop of Barbados from £1,000 to £700.

Bank Holiday (No 6).—The Bank Holidays Act Amendment Act, 1901, makes May 24th (Victoria Day) if a week day a Bank Holiday.

Savings Banks (No. 8).—The Savings Bank Amendment Act, 1901, allows interest at £2 10*s*. per cent. per annum on deposits.

Demise of Crown (No. 9).—The Representation of the People Amendment Act, 1901, provides that the demise of the Crown shall not dissolve the local Parliament.

Police (No. 13).—The Police Act, 1901, settles the general constitution of the police force, and gives power to the Governor in Executive Committee to make regulations which are to be subject to the sanction of the Legislature. The Act provides for the general administration of the force, the duties of the land police and the harbour police, and places the control of the police in the case of riot or of any danger to the public peace in the hands of the district magistrates.

Fire Prevention (No. 18).—The Cane Fires' Prevention Act, 1901, makes it penal to light a fire, or smoke, in a field of canes.

Agricultural Loans (No. 20).—The Agricultural Aids Amendment Act, 1901, amends the principal Act of 1887, and provides that the account of the expenditure of moneys borrowed under the Act shall be handed to the Master in Chancery or Provost Marshal, when land is in the Court of Chancery or levied on, or to any lien holder who may require it after one month's notice, and regulates the method of appraising the value of the crops for the purpose of a loan under the principal Act, and the duties of a Receiver appointed by the Court in respect of the crops against which advances have been made under the Act. Purchasers of land are subject to certain restrictions on borrowing under the Act, before they have received their conveyances.

Volunteer Force (No. 21).—The Volunteer Act, 1901, enables the Governor upon a resolution of the Legislature to raise a volunteer force, and subjects all volunteers to a service of three years and to the provisions of the Act in respect of all matters of discipline and duties in connection with the military service.

Public Education (No. 25).—The Pensions (Public Elementary School Teacher) Act, 1901, provides pensions for teachers, subject to certain conditions, and in accordance with the scale defined in the Act.

3. BERMUDA.

[*Contributed by the* Hon. Reginald Gray, *Attorney-General.*]

Acts passed—40.

The number of Acts passed was above the average, but many of them are short, and comparatively few are of general interest beyond the limits of the Colony. Six consolidating Acts were among the number, and the Statute Book is improved to this extent.

The following Acts may be specially mentioned :—

Aliens (No. 5).—This Act made such amendments to the Alien Act, 1897 (No. 7), as were necessary to enable this Colony to obtain the benefits of the Convention between the United Kingdom and the United States of America, relative to the disposal of real and personal property, which was ratified on July 28th, 1900. The Convention materially improves the position of the alien heirs and divisees of Bermudians, who, after emigrating to the United States, become citizens of that country and die leaving real property in Bermuda.

Married Women (No. 14).—This Act is practically a transcript of the Imperial Statute (the Married Women's Property Act), 1882, as amended by the Married Women's Property Act, 1893, and needs no further comment.

Victoria Day (No. 18).—Under this Act, May 24th is to be called "Victoria Day" to perpetuate the memory of our late Most Gracious Sovereign Lady, Queen Victoria, and is to be a public holiday.

Tobacco Restriction (No. 20).—This is a somewhat novel enactment, and imposes a small penalty on persons selling tobacco, cigars or cigarettes to children under sixteen years of age. Shopkeepers are made liable for permitting breaches of the Act by their employees. It is a sufficient defence to a charge under the Act if the defendant proves that he had reasonable cause to believe that the person to whom the goods were sold was sixteen years of age. A prosecution must be commenced within one month.

Criminal Law (No. 26).—The Speedy Trials Act, 1891. This Act, which was based on a corresponding Canadian Statute, provides in substance that where a person is committed to prison charged with any crime which is not a felony, he may, with his own consent, be tried before the Court without a jury. As early as practicable the prisoner is taken before the Chief Justice, who informs him of the offence with which he is charged, and of his option to be tried without a jury. If he elects to be so tried he is at once arraigned, and if he pleads guilty is sentenced. If he pleads not guilty, a day is fixed for his trial before the Court, consisting of the Chief Justice and two assistant Justices, and the trial proceeds in the usual manner. Although the Act has only been in force a few months, several cases have been disposed of under it, in which the prisoners would

otherwise have been in prison for weeks or months awaiting trial, and there is of course a considerable saving of expense.

Jurors (No. 31).—In 1896 an Act was passed under which persons assessed for £60 were qualified as jurors, and those assessed at £200 as special jurors. The present Act does away with this distinction, but requires the magistrates, who annually revise the Register of Jurors, to select from the persons qualified as jurors such persons as are by reason of superior intelligence, or larger experience, or greater business capacity, or other special qualifications, specially qualified to act as jurors in criminal or civil cases of an unusually difficult or complicated description, and such persons are placed on the special jury list. Any criminal or civil trial may, by order of the Court, be tried by a special jury, which is in such a case selected from the persons returned as special jurors. The Act of 1896 provided that in a capital case the verdict must be unanimous, but this provision is now modified to the extent that, although a verdict of guilty of the capital offence must be unanimous, a verdict of not guilty, or guilty of a minor offence, may be found, as in other criminal cases, by a majority of three-fourths. Since the adoption of this latter principle it has been a rare thing for a jury to be discharged without a verdict, although this was previously of constant occurrence.

Superannuation (No. 35).—An Act of 1893 provided for the superannuation of the civil servants of the Colony so far as affected their service, subsequent to July 1st, 1894, but the Legislature was unable at that time to agree on a scheme to cover service prior to that date. The recent Act gets over this difficulty and permits public officers to obtain the benefit of their service prior to 1894 by paying up the amounts which would have been deducted from their salaries if the Act had been in force, and allowing them a period not exceeding five years to make such payments. The Act has been generally accepted as an equitable adjustment of the matter in question.

4. BRITISH GUIANA.[1]

[*Contributed by* FREDERICK H. M. CORBET, ESQ., *and* RICHARD F. HONTER, ESQ.]

Ordinances passed—17 (between February 23rd and November 23rd, 1901).

Revenue (Nos. 1 and 2).—These are the Ordinances, passed annually, providing for the revenue of the Colony from import duties, tax on land under cane cultivation, tonnage, spirit, and stamp duties, licences, and storage rent.

Mining (No. 3).—The object of this Ordinance is to encourage owners of land and other private individuals to help in developing the mineral wealth of the Colony. In certain circumstances the Governor may allow

[1] Ordinances Nos. 8, 25 and 28 of 1901 had not been received when this review went to press.

the temporary occupation and trial of Crown lands with the purpose of encouraging concessionists. The approval of the Secretary of State is essential to the absolute grant of Crown lands which each concession involves. The owner of private lands is allowed the right of search for and appropriation of the base metals; a concession and licence must precede the working of private lands for gold and silver; the owner is compelled to keep a record of these precious metals obtained, for the purpose of the payment of the royalty; he has, however, no right to precious stones found on his lands. Further concessions may be granted to private individuals or corporate bodies to occupy and dredge a river or creek, the precious metals and stones therein found becoming their property, subject to the regulations of the Governor and Court of Policy.

Summary Convictions (No. 4).—The Summary Convictions Offences Ordinance, 1893, is hereby amended. The payment, in part satisfaction of a sum in default of which a person has been committed to prison, reduces the term of imprisonment by a number of days bearing to this term the same proportion that the sum paid bears to the sum in which the prisoner has made default. Such part payment is to be applied first towards Court expenses, and then towards the discharge of the fine.

London Missionary Society (No. 7).—Under this Ordinance the Society is allowed to acquire and hold both movable and immovable property. The latter may be transported, granted, or otherwise conveyed by the Society. Certain officers of the British Guiana Congregational Union, acting on behalf of the Society, may sell and mortgage immovable property, and may sue and be sued in the name of the Society.

Closing Widows' and Orphans' Fund (No. 14).—When the sum standing to the credit of the Fund is insufficient to pay the pensions which are charged on it, the deficiency is to be made up from the public revenues. The rate of abatement from the salaries of the officials is raised from 4 to 5 per cent. A contributory retiring on pension may elect to continue his contribution to the Fund. On the death of a widow who has been in receipt of a pension, a certain proportion of the pension is to be divided amongst the children. The directors of the Fund may appoint guardians into whose hands the pensions to which minors are entitled are paid. By s. 2 the Fund is closed as from December 21st, 1900.

Legal Practitioners (No. 15).—This Ordinance amends that of 1897. The oath to be taken by a barrister before admission to practice is declared. Provisions are made for the rendering, taxation, and recovery of both barristers' and solicitors' bills of costs.

Crown Claims (No. 16).—Summary execution is prescribed for the recovery of claims due to the Crown. Costs of all actions and proceedings of every kind and description by and against the Crown, the Colony, the Attorney-General, or other officer acting on behalf of the Crown or Colony are to be awarded as if the actions and proceedings were between private persons.

Supreme Court (No. 17).—Persons employed in the Registrar's Office are prohibited from purchasing property sold at execution except to protect the interests of wife or child. The Court is to possess jurisdiction over foreigners, who may sue and be sued, subject to special disabilities. The Court is empowered to issue a warrant for the apprehension of a defendant to an action who is about to quit the Colony and thus prejudice the prosecution of the action. He is allowed the option of giving security in a sum not exceeding the amount claimed.

Administrator-General (No. 18).—The Ordinance of 1887 is amended by this enactment. Where the Administrator-General is appointed to administer trusts in association with others, the Court may fix his remuneration. He is required to give security in a sum of not less than $15,000; the security to be given by other officers appointed under the Ordinance may be fixed by the Governor in Council. According as the estate which is being administered can or cannot bear the costs of a necessary action, the Administrator-General is entitled to reimbursement from the estate or an order *pro Deo*. Special provision is made for the estates of deceased American citizens. The American Consul is the proper officer into whose hands such estates must be delivered.

East Indian Settlement (No. 19).—The Governor in Council is empowered to make regulations for the management of an East Indian Settlement. The cost of maintenance of such a settlement is charged upon the inhabitants, the rate being payable in money or labour. This Ordinance amends the Immigration Law.

Hand-in-Hand Fire Insurance Company (No. 22).—The Ordinance of 1900 is hereby amended. No personal liability will attach to a member in respect of any contract or agreement of the company. All claims and demands will be chargeable upon the capital of the company only.

Tobacco.—(No. 27) regulates the treatment of tobacco on licensed premises.

5. BRITISH HONDURAS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Ordinances passed—20.[1]

Administration of Justice (No. 5, 1901).—This Ordinance amends the District Courts Ordinance of 1899 by giving jurisdiction to the District Court to determine summarily all personal actions where the amount claimed does not exceed one hundred dollars; but actions of ejectment, libel, false imprisonment, malicious prosecution, seduction, criminal conversation, or breach of promise of marriage are excepted.

[1] Ordinances are passed by the Governor with the advice and consent of the Legislative Council.

Oaths (No. 6, 1901).—This Ordination permits persons objecting to be sworn to make an affirmation instead of taking an oath.

Administration of Estates (No. 12, 1901).—This Ordinance amends the law relating to the real and personal estates of citizens of the United States of America dying within the Colony, by enabling, in the absence of persons rightfully entitled, the American Consul to administer the personal estate and take possession of the real estate of the deceased person.

Bankruptcy (No. 14, 1901).—The Bankruptcy Ordinance, 1901, is a complete Code of bankruptcy, following closely the Bankruptcy (Imperial) Act of 1883, as amended by the Imperial Act of 1890; and by a subsequent Ordinance (No. 17, 1901) a right of appeal is given from the orders by the Court to the King-in-Council.

6. JAMAICA.

[*Contributed by* S. Leslie Thornton, Esq.]

Laws passed—25, of which No. 21 was disallowed by the Secretary of State.

Police.—By Law No. 2 the existing Law as to assaults on the police is extended to include cases of obstructing or hindering the police in the execution of their duty; and by s. 3 the Court is empowered for a second offence to sentence the offender to imprisonment with or without hard labour for one year.

Calcium Carbide.—No. 5 regulates the sale and storage of this illuminant. S. 1 defines it "to mean any substance capable of evolving acetylene when treated with water." S. 2 requires a licence to enable persons to deal in, sell, or store calcium carbide, except where the quantities do not exceed "five pounds when kept in separate substantial hermetically closed metal vessel s each containing not more than one pound." By s. 3 rules for storage may be made in Privy Council, but they are not to apply to houses situate more than a hundred yards from other houses. S. 5 provides regulations for its sale, and gives power to confiscate any which is "impure to a dangerous extent."

Unoccupied House Rates.—In Kingston it is provided that the rate on such houses shall not exceed one-fourth of the general rate.

Kingston Assessment.—No. 10 consolidates and amends the existing laws relating to this subject.

Matches.—By the Match Excise Duty Law (No. 12) a duty of threepence upon every gross of boxes of matches manufactured in the Island containing fifty sticks or less per box is imposed. Annual licences are required from persons manufacturing matches. Each manufacturer is required before commencing business to make a statutory declaration describing his place of business (s. 6); provide a secure and approved store for storing the matches he manufactures (s. 7); keep the prescribed books (s. 8), and (s. 9) a

record of all materials purchased or used in the manufacture. Quarterly returns of the quantity manufactured and of the disposal thereof have to be sent in to the Collector (s. 10). Powers of entry and inspection and of search are conferred on revenue officers; and by s. 17 every manufacturer is made responsible for the Acts of his employees.

Industrial Schools (No. 13).—By s. 2 of this Law children sent to an industrial school are in future, after the expiration of the period of their detention there, to remain until they reach eighteen under the supervision of the superintendent; and by sub-s. 2 of the same section the superintendent may extend to such children the existing system of licensing them out to trustworthy and respectable persons, subject to special provisions as regards the cost of so doing to the parochial boards, and for ensuring that they are satisfactorily provided for. S. 3 makes it an offence for any one knowingly to assist or induce directly or indirectly a child placed on licence to escape from any person with whom the child is so licensed, or to prevent the child from returning to any person aforesaid.

Produce Dealers.—An amendment which seems annually necessary in the produce protection law is made by Law No. 15, altering the amount to be paid for licences by dealers, and requiring licences from servants or agents of dealers. S. 10 provides that the *onus probandi* that an accused had no intention to deal in produce shall lie on the accused.

United States Citizens.—For the purpose of giving effect to a convention dated March 2nd, 1899, and made between the United Kingdom and the United States of America, Law No. 16 provides that on the death of a citizen of the United States leaving property in Jamaica without known representatives, the Administrator-General shall on becoming aware of such fact inform the United States Consul, who may appear on behalf of absent heirs or creditors of the deceased until they are duly represented.

Parochial Boards.—No. 17, in a short Law of forty-three sections, very usefully consolidates the law relating to these boards hitherto existing in a scattered form in some nine different Laws.

Agricultural Fertilisers and Feeding Stuffs.—No. 18 regulates the sale of these articles. By s. 1. an invoice and warranty must be given to every purchaser of any quantity exceeding half a hundredweight. S. 3 describes offences against the Law, and by sub-s. (2) provides that "it shall be no defence to allege that the buyer having only bought for analysis was not prejudiced by the sale," and by sub-s. (3) the rights, civil or criminal, of the seller in such a case against his own vendor are preserved, and any damages he may recover may include his own fine and costs. S. 4 entitles a purchaser for a small fee to obtain a certified analysis from the Government Chemist, and by sub-s. (3) the Board of Agriculture or any person nominated by the Governor in Council may obtain samples of manures for analysis. SS. 5 and 6 relate to offences in connection with samples.

Prædial Larceny (No. 21).—This Law, containing some novel and drastic provisions dealing with this very prevalent offence, was disallowed by the Secretary of State.

Real Property Valuation (No. 22).—The preamble of this Law, the most important of the year, states that "it is expedient to take steps to establish an estimate of the value of all real property in the Island, so as to provide a basis for assessing taxes in proportion to such value for general revenue or for parochial purposes." By S. 1 a valuation roll of all holdings is directed to be prepared and to remain in force for five years. A Valuation Commissioner is appointed for this purpose at a remuneration not to exceed £250, with the collectors of taxes as his assistants (ss. 2 and 3.) By s. 4 every person in possession of real property, whether rented or not, is to make an ingiving to the collector of his parish describing it and giving its value. An ingiving only as to the rent payable by him is required from a tenant, and where there are several tenants, no ingiving is required. SS. 5 to 9 provide the procedure to be followed where default in making an ingiving occurs (for which a fine of four shillings may be levied) or where the valuation given appears insufficient to the collector. Failing an agreement as to the valuation, a proceeding is to be instituted in the resident magistrate's Court, and the decision of that Court is final. Powers of entry on the property by the revenue officers to ascertain its value, and of amendment to the roll are given; and by s. 13 changes in the possession of property after the completion of the roll must be notified to the collector, with a view to the correction of the value on the roll. Definitions of "person in possession of real property" and of "value" follow. The latter is defined to mean and include (1) the actual gross present value; (2) the actual or presumable net annual rental value; and (3) the presumable net value of the ground forming the site of the real property, in a natural and unimproved condition, in its then present surroundings.

The remaining legislation of the year was of merely local interest.

7. TURK'S AND CAICOS ISLANDS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Ordinances passed—9.[1]

Liquor Licences (No. 2, 1901).—The Liquor Licence (Amendment) Ordinance, 1901, amends and is consolidated with like Ordinances of 1894 and 1898. It controls and regulates the use of restricted licences.

Evidence (No. 3, 1901).—The Evidence Ordinance, 1901, codifies the law of evidence.

[1] Ordinances are made by the Legislative Board of the Turk's and Caicos Islands, and require the assent of the Administrator of the Government or of the Governor-in-Chief, the Governor of Jamaica.

Part I.—Relevancy of facts.
Preliminary;
Admissions and confessions;
Statements;
Judgments of Courts;
Opinions;
Character.
Part II.—On proof.
Facts which need not be proved;
Oral evidence;
Documentary evidence;
Public documents;
Presumptions as to documents;
Exclusion of oral by documentary evidence.
Part III.—Production and effect of evidence.
The burden of proof;
Estoppel;
Witnesses;
Examination of witnesses;
Improper admission and rejection of evidence.
The Ordinance contains 142 sections and a schedule.

Census (No. 4, 1901).—The Census Ordinance, 1901, regulates the taking of the census in 1901.

Passengers (No. 5, 1901).—The Passengers Ordinance, 1901, regulates and provides for the inspection of passenger ships by the port officer.

Poisons (No. 6, 1901).—The Poisons Ordinance, 1901, requires the labelling of all poisons, and regulates their sale.

Public Holidays (No. 7, 1901).—The Public Holidays Ordinance, 1901, declares the following days to be public holidays: New Year's Day, Good Friday, Easter Monday, Victoria Day (May 24th), Christmas Day, the day after Christmas Day, the birthday of the Sovereign.

Education (Public) (No. 9, 1901).—The Education Ordinance, 1901, repeals the Compulsory Education Ordinance, 1883, and constitutes a Board of Education. Powers are given to the board to make regulations. The Bible is to be a daily class-book in every school receiving aid from the board, and no child is to be excluded on account of his religious denomination. A school rate of ten shillings for each child is to be paid half-yearly by the parents.

8. TRINIDAD AND TOBAGO.

[*Contributed by* Wallwyn P. B. Shepheard, Esq.]

Ordinances passed (1901)—37.[1]

Immigration (Nos. 2 and 34, 1901).—These Ordinances grant export duties on sugar, rum, cocoa, coffee, molasses and cocoanuts produced in the Colony, and specifically appropriate the proceeds of such taxation for immigration purposes.

Census (No. 5, 1901).—This Ordinance fixes Sunday the 21st, and Monday the 22nd of April, 1901, for taking the census.

Education (Nos. 6 and 22, 1901).—The Education Ordinance and the Education (Amendment) Ordinance, 1901, amend the Elementary Education Ordinances, 1890 and 1891. Children attending Elementary schools may be charged such school fees as the Board of Education may prescribe, and in Government schools the fees are to be paid into the Treasury and in assisted schools retained by the managers. Private schools thereafter established are not to receive aid from the public funds unless the Board decides such private school to be necessary. Grants in aid from the public funds are to be in such proportion to the contributions by the local managers as the Board may determine for providing school lands and houses and residences for teachers, and the furniture and apparatus of such school-houses.

Statute Revision (No. 7, 1901).—The Law Revision Ordinance, 1901, repeals the whole or part of the Ordinances mentioned in the schedule, but where any Enactment has been repealed, confirmed, revived, or perpetuated by an Enactment repealed by the Ordinance, such repeal, confirmation, revivor or perpetuation shall not be affected, nor shall any Enactment in which the repealed Enactment has been incorporated be affected; nor shall rights, titles, etc., already acquired, etc., be affected by such repeal; nor shall any jurisdiction, rule of law, etc., not then existing be revived by such repeal. The schedule contains ninety-four Ordinances repealed either wholly or in part.

Imperial Loans (No. 11, 1901).—This Ordinance amends the Imperial Loans Ordinance, 1900, by giving priority to the principal and interest of the loan over all charges not existing at the date of the loan.

Apportionment (No. 12, 1901).—The Apportionment Ordinance, 1901, declares that all interest, rents, etc., and periodical outgoings, etc., shall be deemed as accruing from day to day and apportionable in respect of time accordingly, and such apportioned part shall be payable when the entire portion shall be payable.

Juries (No. 16, 1901).—The Jury Ordinance, 1901, amends and is

[1] Ordinances are made by the Governor with the advice and consent of the Legislative Council, and private and public Ordinances are numbered consecutively for the calendar year.

consolidated with the Jury Ordinance, 1884. The Ordinance deals with trials by jury on Order of Court, Disqualifications and Revision of List of Jurymen; it fixes twelve jurors and requires their unanimous verdict in trials for murder and treason. It also provides as to challenges by persons indicted, authorises refreshments for juries, and enables in certain cases verdicts of seven or five to be accepted. In case of any disagreement of a jury in a civil case without verdict being come to, the next trial shall be held before a Judge without a jury.

Leprosy (Nos. 18 and 29, 1901).—The Lepers Ordinance and the Lepers (Amendment) Ordinance, 1901, provides Asylums and enacts regulations for the treatment of Lepers.

Judicature (No. 19).—The Judicature Ordinance, 1901, amends the like Ordinance, 1879, and gives summary jurisdiction at law to the Supreme Court in actions where the claim, etc., does not exceed £200, and where the lands sought to be recovered do not exceed £500.

Companies (No. 20, 1901).—The Companies (Branch Registers) Ordinance, 1901, enables any company registered under the Companies Ordinance, 1869, with its capital represented by shares or stock, and whose objects comprise the transaction of business in India or any British Colony, to keep branch registers of members resident where such business is conducted, and such branch registers are to be deemed a part of the company's register of members.

Distress for Rent (No. 30, 1901).—The Law of Distress Amendment Ordinance, 1901, exempts from distress for rent, wearing apparel and bedding of the tenant and his family, and the tools and implements of his trade to the value of £2, and regulates the sale of the distress, and requires all bailiffs to be certificated in writing by a Stipendiary Justice of the Peace, and gives power to the Chief Justice with the concurrence of a Puisne Justice to make Rules for carrying into effect the objects of the Ordinance.

Trustee Investments (No. 35, 1901).—The Trustee Investment in Trinidad Government Securities Ordinance, 1901, provides for the payment out of the revenues of the Colony of any sums which may become payable to stockholders under any judgment, decree, rule or order of a Court in the United Kingdom, and declares that any Colonial legislation which appears to the Imperial Government prejudicial to the stockholders, may probably be disallowed.

Criminal Procedure (No. 36, 1901).—This Ordinance amends Ordinances No. 9 of 1848; No. 47 of 1895; and No. 20 of 1897, and regulates the procedure before a Justice in cases of charges of indictable offences.

Civil Procedure (No. 37, 1901).—The Petty Civil Courts Ordinance, 1901, repeals eleven scheduled Ordinances, 1851-1899, and consolidates and amends the law relating to the official administration, procedure, jurisdiction, trial of actions and process generally in the Petty Civil Courts, and in a schedule formulates Rules and sets out Forms of Summonses, Notices and Writs of Execution, and Table of Fees and Costs.

9. THE WINDWARD ISLANDS.

[*Contributed by* H. L. Ormsby, Esq.]

(i) GRENADA.

Ordinances passed—120.

Town Government.—The Town Boards Ordinance, 1901 (No. 13 of 1901), provides for the constitution (ss. 5-12), meetings (ss. 13-15), powers and functions (ss. 16-29) of town boards; for the election of members (ss. 30-5); for the regulation of the town fund (ss. 36-9); for the assessment and collection of rates and taxes (ss. 40-59); for the raising and repayment of loans, and for sinking funds (ss. 60-3); and for transfer of property to boards, dissolution of boards by the Governor, penalties for offences, etc. (ss. 64-9).

Criminal Law.—The Criminal Code Amendment Ordinance, 1901 (No. 14 of 1901), allows animals which have been seized to be released on the recognisance of the owner to appear to any charge against him (s. 2), and prohibits the driving of more than two animals abreast, or not having lights on vehicles and cycles between 6.30 p.m. and 4 a.m., and the not keeping on the near side of the carriage-way.

Public Officer.—The Public Officers' Security Ordinance, 1901 (No. 17 of 1901), provides that officers required to give security shall do so by security of one or more persons resident in the United Kingdom, the Colony, or other British Colony, or of any guarantee or company in the United Kingdom (s. 3), such security to be approved by the Governor (s. 4), and regulates the manner of giving such security, notice of determination, substitution of securities, payment by officers of annual premiums to Governor six weeks in advance, exemption of bonds from stamp duty, etc.

Registration of Births, Deaths, and Marriages.—The Marriage Amendment Ordinance, 1901, enacts that the marriage officer shall register any marriage solemnised before him in the marriage register, and also on a separate form, the latter to be signed by the parties, two witnesses, and the marriage officer, and to be transmitted to the Registrar-General (s. 1). S. 2 makes both these documents and certified copies evidence.

Administration.—The Deceased Persons' Consular Representation Ordinance, 1901 (No. 20 of 1901), is identical with the St. Lucia Ordinance on the same subject.

(ii) ST. LUCIA.

Ordinances passed—12.

Harbours.—The Public Jetties Ordinance, 1901 (No. 3 of 1901), provides that jetties are to be under control of the Governor in Council, and

maintained from general revenue (s. 3). The superintendent of works is charged with their repair, and is to report on them annually (ss. 4, 5), and may institute prosecutions and actions for damage (ss. 10, 11). The Governor in Council may make rules infringement of which is punishable by fine not exceeding £5 or imprisonment not exceeding one month (ss. 6, 7). Ships are liable for damages occasioned by the master (s. 8).

Punishment.—The Minor Products' Protection Ordinance, 1899, Amendment Ordinance, 1901 (No. 4 of 1901), enacts that no whipping shall be inflicted under the principal Act without the previous sanction of the Governor.

Administration.—The United Kingdom and United States Disposal of Real and Personal Property Convention Ordinance, 1901 (No. 5 of 1901), enacts that, on the death of any United States citizen without known heirs, etc., the Administrator-General shall communicate with the United States Consul, who may appear personally on behalf of absent heirs and creditors.

Alien.—The Naturalisation Ordinance, 1901 (No. 6 of 1901), regulates the naturalisation of aliens who for five years have either resided in the island or have been in the service of the Crown, and gives power to the Governor to make regulations as to certificates, fees, and registration of oaths.

Holiday.—The Bank-Holidays Amending Ordinance, 1901 (No. 7 of 1901), makes May 24th in each year a Bank Holiday, under the name of "Victoria Day."

Merchant Shipping.—The Wrecks Ordinance, 1901 (No. 8 of 1901), adapts to the Colony the following sections of the Imperial Merchant Shipping Act, 1894: s. 464 (s. 1), s. 478 (ss. 2, 4, 5), s. 470 (s. 3), s. 475 (s. 6), s. 569 (ss. 7, 8), s. 518 (s. 9). SS. 10, 12, 13, 17, 18, 19 deal with the payment of duty on wrecks; s. 13 repeals certain sections of the principal Ordinance (the Shipping Ordinance, 1888); ss. 14, 15, 16 make certain minor amendments therein.

Trustee.—Trustee Investment in St. Lucia Government Securities Ordinance, 1901 (No. 10 of 1901), provides for the payment out of the funds in the hands of the Crown agents, without any further appropriation, of any sum declared by any competent Court in the United Kingdom to be payable by the Government of St. Lucia.

(iii) ST. VINCENT.

Ordinances passed—11.

Public Health.—The Public Health Ordinance, 1901 (No. 3 of 1901), repeals the Public Health Act, 1865, and makes the Governor in Council the general sanitary authority for the island, and provides for the appointment of local authorities: the local authorities are to provide receptacles for refuse, to give notice to owners to cleanse premises, under penalty of

10*s.* per diem on default (ss. 2-8); imposes a penalty not exceeding a fine of £2 or imprisonment for one month, with a continuing penalty of 5*s.* or 7 days per diem, for keeping swine in a prohibited area, or so as to be a nuisance—suffering stagnant water to remain after twenty-four hours' notice, or allowing the contents of any water-closet, etc., to overflow (s. 9). Certain nuisances may be dealt with summarily (s. 10). Local authorities are to provide for inspection and abatement of nuisances (ss. 11, 12). SS. 13-16 deal with the powers of magistrates in cases of nuisance; ss. 17-19 deal with their powers in the abatement of nuisances. The Governor in Council has power to make regulations for the prevention of contagious, infectious, or epidemic diseases; for the relief of persons suffering therefrom; for the speedy interment of persons dying therefrom; for the control of temporary hospitals and the sanitation of ports (s. 20). By s. 21 the violation or obstruction of such regulations is punishable by a penalty not exceeding £20 or six months' imprisonment, with or without hard labour. Expenses, prosecutions, etc., are also regulated.

Holiday—The Bank Holidays Amending Ordinance, 1901 (No. 6 of 1901), makes May 24th a Bank Holiday, under the name of "Victoria Day."

District Warden.—The District Wardens Ordinance, 1901 (No. 10 of 1901), enacts that the Colony shall be divided into districts, and that the Governor may appoint a District Warden to each district, who is to appoint a town warden of each of the small towns, a way warden of each parish, an education officer, a poor relief inspector, and a local sanitary authority, exclusive of the towns within his district; he is also to control all public cemetaries not under town wardens or the Kingston Board.

Fishery: Wild Birds.—The Birds and Fish Protection Ordinance, 1901 (No. 11 of 1901), protects the birds in the 1st Schedule absolutely; prescribes a close time for those in the 2nd Schedule, and for oysters and turtle. Turtle and turtle eggs are absolutely protected on land, as also are turtles under twenty pounds. Infringement of the Ordinance is punishable by fine not exceeding £5, or imprisonment with or without hard labour not exceeding three months. The Governor has power to vary close times and the 2nd Schedule, and may authorise killing birds for scientific purposes. Half fines are to go to the informer.

10. THE LEEWARD ISLANDS.

[*Contributed by* H. L. Ormsby, Esq.]

Acts passed—14.

Statute Law Revision.—The Statute Law Revision Act, 1901 (No. 14 of 1901), is on the exact lines of the Imperial Statute Law Revision Acts.

(i) ANTIGUA.

Ordinances passed—10.

Fire.—The Bush-Fires Ordinance, 1901 (No. 5 of 1901), empowers the Governor by proclamation to prohibit within limits specified by him the setting of fire to any land (s. 3); requires owners desiring to set fire to land to obtain a licence (s. 4); imposes a fine not exceeding £50, or imprisonment not exceeding six months, for so doing without a licence (s. 5). The fact of fire is *primâ-facie* evidence against the owner (s. 6); setting fire to Crown lands without due permission is punishable as in s. 5 (s. 7). The surveyor of works may order setting fire to Crown lands (s. 8). Police officers, etc., may enter on lands to extinguish fires and call upon persons to assist them (ss. 9, 10). S. 11 deals with King's evidence; s. 12 gives half penalties to informers; s. 13 regulates prosecutions, etc.

Customs.—The Customs Tariff Ordinance, 1901 (No. 8 of 1901), prescribes for Customs duties on the following articles: Aerated waters, alcoholic liquors, animals, brick and tiles, cement, coal, etc.; opium, etc.; fire-arms and ammunition, grain, matches, oil, meal, etc.; perfumery, etc.; provisions, tallow and oils, tobacco, and wood. The following are to be admitted free: samples, goods, the product of the Leeward Islands, or which have paid duties in any of the islands except Dominica; baggage, etc., of passengers, books, eggs, fertilisers, fish, fruits, household furniture of immigrants, bullion, ice, maps, marble, music, packages, pictures, plants, articles for public worship or education, salt, shipbuilding materials, natural history specimens, steam engines, surgical instruments, telegraphic apparatus, tombstones, naval and military stores, Consular property, articles for repair. The Ordinance also regulates drawback on exportation, etc.

(ii) DOMINICA.

Ordinances passed—3

Savings Bank.—The Savings Bank Amendment Ordinance, 1901 (No. 3 of 1901), directs that interest on deposits is to be calculated up to March 31st, and then added to the principal sum.

(iii) MONTSERRAT.

Ordinances passed—9.

Customs.—The Tariff Collection Ordinance, 1893, Amendment Ordinance, 1901 (No. 4 of 1901), authorises the issue of permits for carrying spirits and tobacco in vessels under thirty tons to and from places outside of the Colony.

Intoxicating Liquors.—The Liquor Licence [sic] Ordinance, 1896, Amendment Ordinance, 1901 (No. 6 of 1901), provides that special country

licences shall bear a fee of £1 17*s.* 6*d.*; that wholesale licences shall authorise the sale of not less than a dozen reputed quarts, and shall bear a fee of £5.

Savings Bank.—The Savings Bank Amendment Ordinance, 1901 (No. 7 of 1901), limits deposits to £100, exclusive of interest; and when principal and interest shall amount to £150, no more interest is to be paid (s. 3). Interest to be at the rate of 2½ per cent. (s. 4); interest to be calculated to March 31st, and then added to the principal (s. 5).

Highway.—The Road Ordinance, 1901 (No. 8 of 1901), empowers the Governor to divert public roads and to close roads dangerous to traffic, and make the operation of the Ordinance retrospective.

(iv) ST. CHRISTOPHER AND NEVIS.

Ordinances passed—16.

Intoxicating Liquors.—The Liquor Licence (*sic*) Consolidation Ordinance, 1901 (No. 8 of 1901), consolidates the law as to the sale of intoxicating liquor. Licences are required to sell liquor except for the sale of rum by distillers in quantities not less than fifty gallons, and in dispensing, etc., of medicines (s. 5). District magistrates are to hold quarterly courts for applications for licences. Applicants are to give fourteen days' notice, which magistrate is to publish in newspaper (ss. 6-8). Magistrate is to hear objections and grant or refuse a certificate (s. 9); appeal to judge in chambers in case of refusal (s. 10); issue of licence by treasurer (s. 11). Restaurant and hotel licences may be granted by Governor in Council (ss. 12-15). Hotel licencees not to sell rum or any liquor on the ground floor, or except to boarders and to persons taking a meal (s. 16). Licences to last for three months (s. 17). Premises connected with unlicensed place of entertainment or refreshment-house cannot be licensed except magistrate certify (s. 18). Licensed dealers to keep sale-books, and give sale notes in case of sales over one gallon (ss. 19, 20). Closing-time from 10 p.m. Saturday to 6 a.m. Monday; week-day nights, 9 p.m. to 6 a.m. (s. 21). Licensed persons to have notices affixed outside premises (s. 22). Treasurer to furnish police with lists of wholesale and retail licences (s. 23). Licences to be hung up in premises (s. 24). Licensed person may remove on amended certificate (s. 25). Executor to have benefit of licence (s. 26). Auctioneers may sell liquor on licence from treasurer (s. 27).

SS. 28-43 deal with penalties of these; s. 42 penalties selling liquor injurious to health; ss. 44-8 deal with inspection, etc.; s. 51 imposes a penalty of £50 on infringement of the Ordinance. Schedule D fixes the fees for licences as follows: off-licence for all liquors except rum in quantities not less than one reputed quart, £5; general licences from £20 to £1, according to locality; restaurant licence, £6 5*s.*; hotel licence, £10.

Land Tax, House Tax.—The Land and House Tax Consolidation Ordinance, 1901 (No. 9 of 1901), provides for the imposition and collection

of the above taxes, and for the enforcement of payment. The rates imposed are as follows :—

(1) *In St. Christopher and Nevis.*—House lots above annual value of £15, 4 per cent. on annual value; cultivated land, 3*s.* per acre; uncultivated land, 6*d.* per acre; on all land in any parish in St. Christopher where the rector is paid from public revenue, a further tax of 1*s.* 6*d.* per acre on cultivated land.

(2) *In Anguilla.*—On all land not included in the house lot, 6*d.* per acre; on every house lot of the annual value of £8, 2 per cent. on annual value.

Game.—Ordinance No. 14 of 1901 repeals Act No. 62 of St. Christopher, which required licences to be taken out to shoot game.

(v) THE VIRGIN ISLANDS.

Ordinances passed—6.

Vaccination.—The Vaccination Ordinance, 1901 (No. 5 of 1901), enacts that district registrars or assistant registrars of births and deaths are at least once in each quarter to send return of births, etc., to the vaccinator.

Medical Profession: Dentists.—Ordinance No. 6 of 1901 enacts that it is within the competency of the general Legislature of the Leeward Islands to make laws in respect of: (*a*) the qualification of practitioners in medicine and surgery; the practise thereof and the sale of medicine; and (*b*) the qualification of surgeon dentists and the practise of dentistry.

X. MEDITERRANEAN COLONIES.

[*Contributed by* ALBERT GRAY, ESQ.]

1. CYPRUS.

Laws passed—18.

Village Communities.—A Law intended to give effect to contracts of village communities (No. 7) provides that whenever at a duly convened meeting the majority of the householders then present decide to enter into any contract or obligation, the High Commissioner, if satisfied that it is for the benefit of the village, may authorise the Mukhtar and any one

member of the "village commission" to enter into the contract or obligation on behalf of the village. The Mukhtar of the village may sue or be sued on the contract.

Public Vehicles.—Next follows (No. 8) a Law for the licensing of public vehicles, defined as vehicles drawn by one or more animals and ordinarily used for the carriage of passengers or goods, for hire. Presumably automobiles have not reached the classic shores of Cyprus!

Firearms.—Under previous Laws individuals may be prohibited from possessing firearms. By Law No. 13 of 1901, the High Commissioner may, if satisfied as to the good conduct of a person so prohibited, rescind the prohibition upon such conditions as may appear expedient. The person must give security for good behaviour for a period not exceeding three years.

Irrigation.—The only section of a short Irrigation Law (No. 14) which need concern us is one which provides that when any irrigation work is threatened by any sudden danger, the officer in charge of the work may, by resort to the church bell, public crier, or other means, summon the able-bodied inhabitants to the rescue, on pain of a small fine.

Shipping Dues.—A new mode of levying the shipping dues is provided by Law No. 17. The Law enacts that there shall be levied and paid upon goods, animals, and things imported or exported, charges "not exceeding" those stated in the schedules. These words would seem to open the door to differential treatment.

Excise.—By Law No. 18 a tax called Zejriyye is abolished, and excise duties on distilled liquor are to be levied more on the English plan.

2. GIBRALTAR.

Ordinances passed—7.

Sketching and Photographing.—Military exigencies justify the prohibition of sketching and photographing in a place like Gibraltar. The Governor is authorised (No. 4) to make regulations fixing the conditions under which these pursuits may be indulged in. The other Ordinances are of a purely local or private character.

3. MALTA.

Ordinances passed—7.

Militia.—Authority is given for the raising and embodiment of a militia corps, as also of a corps of submarine miners in connection with the Royal Engineers (No. 12). Most of the details as to the service of these corps are left to be regulated by the Governor. They may be disembodied by Proclamation of the Governor.

The Sovereign.—An Ordinance (No. 6) substitutes references in local

laws to his Majesty for references to her late Majesty. The Interpretation Act, 1889, ought to have been adopted long ago.

Sanitary Law.—A curious short title is given to Law No. 17 of 1901, viz.—"the Second Sanitary Law, 1900." It places under special supervision (*vigilanza speciale*) the practise of medicine, surgery, veterinary art, pharmacy and midwifery; while a number of other trades, such as those of druggists, perfumers, barbers, colourists, confectioners, mineral water manufacturers, etc., are subject to supervision in respect of the public health. Licences to practise medicine and surgery are granted to those who have obtained diplomas under the Imperial Acts, as also to those who obtain local diplomas. Like provisions apply to veterinary surgeons and apothecaries. As regards the latter, regulations are made as to the sale of poisons. They are required not to keep "imperfect, spoilt, or noxious medicines," and they must be guided by the *British Pharmacopœia* in their preparations.

As in the Imperial Act of 1902, licences are required to be taken out by midwives.

Dentists and phlebotomists must be licensed by the Medical Board, and must have a diploma from the University, unless qualified under an Act of the Imperial Parliament.

The supervision projected over the trades mentioned above, in the interests of public health, is interesting. The premises of barbers, confectioners, etc., may be inspected by the Medical Officers of Health.

Carrier Pigeons.—A somewhat novel Law (No. 14) provides for the regulation of carrier pigeon lofts. The introduction into Malta of carrier pigeons is only permitted from those foreign countries with which his Majesty has made an arrangement "for mutual treatment of such birds." All carrier pigeon lofts must be licensed. The flying of carrier pigeons can only take place in such localities as are approved by the Government.

INDEX TO REVIEW OF LEGISLATION.

PAGE

ABDUCTION, definition of and punishment of (United States) 211
Accidents: compensation for (Sweden) 205
——— medical examination (New Zealand) 291
——— miners, to, relief (New South Wales) 266
——— prevention of, to workers (Italy) 203
Administration of estates (British India) 236–237
——— administrator-general (British Guiana) 346
——— advice, petition for (Sierra Leone) 313–314
——— American citizen (British Honduras) 347
——— ——— (Gambia) 309–310
——— ——— (Hong-Kong) 248
——— ——— (Jamaica) 348
——— ——— (Newfoundland) 340
——— ——— (St. Lucia) 354
——— civil servants (Sierra Leone) 313–314
——— minors, estates of (Orange River Colony) 308
——— official administrator (Falkland Islands) 321
——— probate and letters of administration (Falkland Islands) . . . 321
——— representation of deceased persons (Grenada) 353
——— soldiers' wills (Sierra Leone) 314
——— succession (Transvaal) 305
——— unpaid shares, registration by executor in name of transferee (Victoria) 284
Administration of Justice. *See* Judicature.
Admiralty: naval works, expenditure on (British Empire) 8
Adulteration of food and drugs (Natal) 302–303
——— of wine (Italy) 203
Agent-General, appointment of (British Columbia) 322–323
Agriculture: agricultural lands purchase (Queensland) 270
——— beet sugar (Province of Ontario) 330
——— burr weed (Natal) 300
——— dairy produce, branding of (Manitoba) 327
——— ——— encouragement (Queensland) 270
——— diplomas for deserving farmers (Province of Quebec) . . . 335
——— diseased plants, sale of (Victoria) 284
——— export of products, inspection (Tasmania) 278
——— fertilisers and feeding stuffs (Jamaica) 348
——— fruit, packing and sale of, and other produce (Dominion of Canada) . 322
——— homesteads, agricultural (Queensland) 269–270

PAGE
Agriculture: land bank (Queensland) 268
——— loans (Barbados) 342
——— meat and dairy produce (Queensland) 270
——— pastoral leases (Queensland) 269
——— ——— (South Australia) 273
——— prickly pear, eradication of (Queensland) 270
——— purchases of agricultural lands (Queensland) 270
——— rabbits, non-destruction of, penalty for (New Zealand) . . . 291
——— schools of (Denmark) 182
——— seed wheat loans, repayment of (South Australia) 275
——— sheep. *See* Sheep.
——— small holdings (Denmark) 182–183
——— sowing of maize during low Nile (Egypt) 184
——— village settlements (South Australia) 273–275
Air, grant of (Western Australia) 289
Alien merchants, incorporation (Gambia) 309
Aliens, naturalisation of (St. Lucia) 354
——— real and personal property (Bermuda) 343
——— United States citizen. *See* Administration of Estates.
Allegiance, oath of (Orange River Colony) 304, 308
——— ——— (Transvaal) 304
Alligator Society (Sierra Leone) 315
America, United States of, legislation of (United States) 206–212
Ammunition, restricting importation of (Northern Nigeria) . . . 318–319
Anglican Church (Barbados) 342
Animals: beavers, close time for (Newfoundland) 340
——— bloodhounds, sheriff may buy to track offenders (Arkansas, Florida) . 211
——— carrier pigeons, flying of (Malta) 360
——— ——— lofts, regulation of (Malta) 360
——— cattle. *See* Cattle.
——— contagious diseases (Tasmania) 278
——— cruelty to (Queensland) 270
——— dogs, registration of (Ceylon) 242
——— ——— right to kill (Province of Quebec) 336
——— ——— ——— (Queensland) 270
——— ——— wild, destruction of (Victoria) 279–280
——— driving more than two abreast (Grenada) 353
——— fish. *See* Fishery.
——— foxes, close time for (Newfoundland) 340
——— game, regulations as to (Province of Quebec) 336
——— locusts (Natal) 299
——— marsupials (Queensland) 270
——— ostriches (Natal) 299
——— rabbits, penalty for non-destruction of (New Zealand) . . . 291
——— rams, exportation of Angora, duty on (Natal) 299
——— scab, inspection (Falkland Islands) 321
——— seizure of, release (Grenada) 353
——— sheep. *See* Sheep.
——— wild animals (Natal) 299
——— ——— protection (Sierra Leone) 314
——— ——— ——— (Southern Nigeria) 316

PAGE
Animals: wild birds' protection (North-West Territories) 329
——— ——— ——— (St. Vincent) 355
——— wild dogs (dingoes) (Queensland) 270
——— ——— ——— destruction of (Victoria) 279
Appeals (Ceylon) 242
——— (Natal) 301
——— (Province of Ontario). *See* Judicature 330
Apportionment of periodical payments (Trinidad and Tobago) 351
Appropriation. *See* Revenue.
Arbitration: accounts between states (Province of Ontario) 329
——— industrial (New South Wales) 262–265
——— ——— and conciliation (New Zealand) 293
——— ——— ——— ——— (Province of Quebec) 338
——— ——— ——— ——— (Western Australia) . . . 287–288
——— ——— boards of (Illinois) 210
——— ——— ——— (Missouri) 210
——— ——— ——— (Utah) 210
Arms, exportation, prohibition of (Bahamas) 341
——— ——— ——— (New Zealand) 291
——— importation, prohibition of (Northern Nigeria) 318–319
Army (British Empire) 217
——— acquisition of land for military purposes (Sierra Leone) . . . 314
——— artillery (Denmark) 183
——— boarding of soldiers (Denmark) 183
——— conscription (Sweden) 204–205
——— courts of enquiry (British Empire) 217
——— military pensions (Dominion of Canada) 322
——— ——— ——— (New Zealand) 296
——— militia (Malta) 359
——— ——— and yeomanry (United Kingdom) 229
——— soldiers' wills (Sierra Leone) 314
——— uniforms, wearing of, by person not in army or navy (Northern Nigeria) 320
——— volunteers. *See* Volunteers.
——— West African Frontier Force (Gold Coast) 310
——— ——— ——— ——— (Sierra Leone) 314
——— ——— ——— ——— (Southern Nigeria) 316
Assam labour and emigration (British India) 235
Associations, expulsion of religious (France) 185–187
Asylums, lepers, for. *See* Lepers.
Attachment of debts (British Columbia) 323–324
Auditor: appointment of general, for Commonwealth of Australia (Commonwealth of Australia) 251
——— ——— state (Tasmania) 277
Authors and publishers, relations between (Germany) 187

Bakeshops, regulation and sanitation of (British Columbia). *See* Shops . 326
Bank: holiday. *See* Public Holiday.
——— land (Queensland) 267, 268–269
——— savings (Barbados) 342
——— ——— (Dominica) 356

PAGE

Bank: savings (Montserrat) 357
——— ——— State (Tasmania) 277
——— State, valuations on advances by (South Australia) 273
Bankruptcy: act of (Hong-Kong) 246
——— code of (British Honduras) 347
——— compositions before (Italy) 202
——— creditors' trust deeds (British Columbia) 324
——— frauds by bankrupts (Western Australia) 287
——— law as to (Italy) 201
——— merchants only can avail themselves of (Italy) 195
——— priority among execution creditors, abolition of (New Brunswick) 327-328
——— sale of debtor's real estate (Prince Edward Island) 335
Barbers and barbers' shops, regulation of (United States) 212
——— ——— ——— Sunday labour in (Province of Ontario) . . 334
——— ——— ——— supervision of (Malta) 360
Barrister, recovery of fees (British Guiana). *See* Legal Practitioner . . . 345
Beavers, close time for (Newfoundland) 340
Betting houses, suppression of (Transvaal) 307
——— prohibition of, by promoter of sports, by advertisement (Victoria) . 284
Billiard licences (Falkland Islands). *See* Gaming 321
——— rooms, minor not to frequent (Minnesota) 209
Bills of exchange, law as to (Italy) 198–200
Births, deaths, and marriages, registration of (Lagos). *See* Registration . . 311
Boilers, inspection of (British Columbia) 325
——— ——— (Province of Ontario) 333
——— testing of (Natal) 300
British subjects only eligible for appointment to public boards (Bahamas) . 341
Bubonic plague (Western Australia) 288
Budget (Denmark) 183
——— (Egypt) 183–184
——— (France) 187
Building, height of structure (Hong-Kong) 249
Burial grounds (Natal) 300
Burr weed (Natal) 300
Bush fires, precautions against (Antigua) 356
——— ——— ——— (Western Australia) 287

Calcium carbide, sale and storage of (Jamaica) 347
Carriage, contracts for (Italy) 200
——— passengers, of (Ceylon) 241
——— rule of the road (Ceylon) 241
Carriages, public, licence for (Cyprus) 359
Carrier pigeon lofts, regulation of (Malta) 360
Cattle, diseases of (New South Wales) 262
——— ——— (Tasmania) 278
——— exportation, duty on (Natal) 299
——— rinderpest (Orange River Colony) 308
——— sale of stock (Orange River Colony) 309
——— slaughtering (Queensland) 270
——— transit of (Straits Settlements) 244
Census (Trinidad and Tobago) 351

PAGE

Census (Turk's and Caicos Islands) 350
Chambers of commerce (Italy) 202
Charity: charitable institutions (British New Guinea) 289–290
——— ——— ——— rating of (New Zealand) 292
——— gifts to, exemption from death duties (New Zealand) . . . 291
——— London Missionary Society (British Guiana) 345
Children: abduction, punishment for (United States) 211
——— attendance at school (New Zealand) 296
——— blind and deaf, duties of parents of (New Zealand) 296
——— destitute, support and training of (Natal) 301
——— education. *See* Education.
——— employment of (Italy) 203
——— entering public school, to prove vaccination (New Brunswick) . . 328
——— factories, employment of, in (New Zealand). *See* Factories . . 297
——— firearms not to be in possession of, where under thirteen (Tasmania) 278
——— foster homes, visitation of (British Columbia) 323
——— gold, not to sell, where under fourteen (Victoria) 286
——— harbouring unmarried native child (Natal) 299
——— illegitimate, maintenance of (Victoria) 279
——— ——— succession of (United States) 210
——— industrial schools (Jamaica) 348
——— intoxicating liquors, sale of, to (United Kingdom) . . . 226–227
——— maternity boarding houses, registration of (British Columbia) . . 325
——— mines, in (New South Wales) 267
——— protection of (British Columbia) 323
——— reformatory schools (Hong-Kong) 247–248
——— schools. *See* Education.
——— tobacco, sale of, to, under sixteen (Bermuda) 343
——— ——— ——— ——— ——— (Prince Edward Island) . 335
——— wages, minimum, in factories (New Zealand) 297
——— youthful offenders (United Kingdom) 218
Chinese emigration, examination (Hong-Kong) 249
——— immigration (New Zealand) 291
Church and clergy: Anglican Church (Barbados) 342
——— bishop, reduction of stipend of (Barbados) 342
——— Presbyterian Church of Australia (Tasmania) 276
——— ——— ——— ——— (Western Australia) 285
——— reform (Denmark) 183
Cigarette smoking (United States) 210
Civil companies (Italy) 196
Civil List of Crown (British Empire) 213–215
Civil procedure (Hong-Kong) 247
——— (Straits Settlements). *See* Procedure 244
Civil service: executive council for (Queensland) 267
——— superannuation (Bermuda) 344
Coal mines. *See* Mines.
Coin, defacement of (Orange River Colony) 308
——— ——— (Transvaal) 306
Colonial stock: investment in (Mauritius) 245
——— ——— ——— (South Australia) 272
——— ——— ——— (Tasmania) 276–277

PAGE

Colonial stock: payment out of (Gold Coast) 310
——— ——— ——— (Natal) 300
——— ——— ——— (Queensland) 268
Colonies: confirmation of Australian Commonwealth Acts (British Empire) . 227
Commerce. *See* Trade.
Commercial agents, rules for (Italy) 200
Commercial and industrial law (Italy) 195
Commercial companies (Italy) 196
Commercial procedure (Italy) 202
Commonwealth of Australia: effect on State legislation (Queensland) . . 267
——— ——— ——— observations on legislation of (Commonwealth of Australia). 254
——— ——— ——— Order in Council as to British New Guinea (British New Guinea) 290
Company: branch registers, keeping (Trinidad and Tobago) 352
——— classification of (Italy) 196
——— commercial and civil (Italy) 196–198
——— Companies Act, 1900 (United Kingdom), adoption of (New Zealand) 296–297
——— constitution of (Italy) 197
——— foreign life insurance company (Germany) 194
——— ——— status of (Italy) 198
——— life insurance (Newfoundland) 340
——— ——— supervision (Germany) 193–194
——— meetings (Italy) 197
——— name transferred to new company (Province of Ontario) . . 331–332
——— promoters, law as to (Italy) 197
——— shares: registration of transferee, immunity of executor (Victoria) . 284
——— ——— stamp duty on (Mauritius) 244–245
——— ——— taxation, assessment (British Columbia) 326
Compensation: accidents, for, medical examination (New Zealand) . . 291
——— workers, to, for injuries (Western Australia). *See* Employment . 286
Concessions: natives, by (Sierra Leone) 315
——— stamp duty on (Gold Coast) 311
Conciliation: industrial, and arbitration (Germany) 191–193
——— ——— ——— ——— (New Zealand) 293
——— ——— ——— ——— (Province of Quebec) 338
——— ——— ——— ——— (Western Australia) 288
Constable. *See* Police.
Constitution, amendment of (South Australia) 271–272
Consumption, hospitals for (Province of Ontario). *See* Health . . . 331
Contagious diseases (animals) (Tasmania). *See* Cattle 278
Contracts: carriage, for (Italy) 200
——— legislators and Government, between (North-West Territories) . . 328
——— mercantile, law governing (Italy) 196
——— mining rights, for (Orange River Colony) 308
——— ——— ——— (Transvaal) 306
——— sale of goods (Italy) 196
——— specific performance (Italy) 196
——— Stock Exchange (Italy) 202
Convention as to property between Imperial Government and United States (Newfoundland) 340

PAGE
Conveyancing: mortgage, statutory form (New Zealand) 291
——— real property and, Amendment Act (New South Wales) . . . 265
Cook Islands' government (New Zealand) 294
Co-operative societies (Italy) 197
Copyright (Germany) 188–189
——— (Hong-Kong) 248
Coronation, expenses of Premier attending (New Brunswick) 328
Coroners: duties and powers of (New South Wales) 262
——— inquests, holding of, by resident magistrates (Orange River Colony) 309
——— ——— ——— ——— ——— ——— (Transvaal) . . 305
Corporations, taxation, assessment (British Columbia) 326
Courts. *See* Judicature.
Creditors' trust deeds (British Columbia) 324
Criminal Law: abduction, definition of (United States) 211
——— adultery by married woman (British India) 239
——— animals seized, release of (Grenada) 353
——— appeals (Sierra Leone) 312–313
——— automatic or penny in the slot machines, keeping, a misdemeanour (United States) 209
——— bankruptcy (Italy) 201–202
——— bloodhounds, sheriff may buy, to track offenders (Arkansas, Florida) 211
——— bush fires (Western Australia) 287
——— cattle stealing, evidence of brand (Dominion of Canada) . . . 322
——— cigarette smoking (United States) 210
——— coin, defacement of (Orange River Colony) 308
——— ——— ——— (Transvaal) 306
——— consorting with disorderly persons (New Zealand) 291
——— Courts of resident magistrates (Orange River Colony) . . . 308
——— criminal code (Western Australia) 287
——— death penalty, restoration of (Colorado) 211
——— defamatory libel (New Zealand) 296
——— desertion of wife or children (Victoria) 279
——— disaffection to Government, creating (Fiji) 290
——— driving more than two animals abreast (Grenada) 353
——— executions to be in private (North Carolina) 211
——— Factory and Workshops Act, offences against (United Kingdom) . 226
——— fires, lighting in field of canes (Barbados) 342
——— flogging, sanction of Governor for (St. Lucia) 354
——— ——— Supreme Court may order, in certain cases (Hong-Kong) . 247
——— Frontier Murderous Outrages' Regulation (British India) . . . 240
——— fugitive offenders (Orange River Colony) 308
——— ——— ——— (South Africa) 304–305
——— ——— ——— (Transvaal) 306
——— homicide, justification (Florida) 211
——— identification of criminals (Missouri) 211
——— imprisonment (Egypt) 184–185
——— indecent assaults (Hong-Kong) 246–247
——— indeterminate sentences (United States) 212
——— industrial schools (Jamaica) 348
——— infanticide (France) 187
——— inquests, holding of, by resident magistrates (Orange River Colony) . 309

PAGE

Criminal Law : inquests, holding of, by resident magistrates (Transvaal) . 305–306
——— intoxicating liquors, minor remaining in place where sold (Utah) . 210
——— jurors, selection of, by magistrates (Bermuda) 344
——— jury, speedy trial without (Bermuda) 343
——— juvenile offenders (Natal) 301
——— kidnapping, definition of (United States) 211
——— larceny (England and Ireland) 218
——— ——— prædial (Jamaica) 349
——— lynching prisoners, sheriff (Alabama) 211
——— ——— ——— (Indiana) 210
——— magistrates' Courts (Transvaal) 304
——— murder societies (Sierra Leone) 314–315
——— native servants, after trial or sentence to return to masters (Natal) . 303
——— parole and probation of prisoners (United States) 212
——— penal code (Mauritius) 245–246
——— police, assaults on (Jamaica) 347
——— prædial larceny (Jamaica) 349
——— procedure (Southern Nigeria) 316–317
——— ——— (Trinidad and Tobago) 352
——— profane, obscene, or provocative language, use of (New Zealand) . 291
——— punishment of offences (Commonwealth of Australia) . . . 258
——— raffles at charitable bazaars, legalising (Dominion of Canada) . . 322
——— rape, public execution for (Arkansas) 211
——— reformatory schools (Hong-Kong) 247–248
——— sexual crimes (United States) 211
——— smoking by minors (Prince Edward Island) 335
——— ——— ——— cigarettes (United States) 210
——— ——— ——— tobacco (Washington) 210
——— summary convictions (British Guiana) 345
——— ——— ——— (Province of Ontario) 331
——— tobacco, sale of, to children under sixteen (Bermuda) . . . 343
——— ——— ——— ——— ——— (Prince Edward Island) . 335
——— track law (British India) 240
——— trial, speedy, without jury (Bermuda) 343
——— uniforms, wearing, without right (Northern Nigeria) 320
——— usury (Sweden) 205–206
——— wagering in stocks and commodities a misdemeanour (Massachusetts) 209
——— whipping not to be inflicted without sanction of Governor (St. Lucia) 354
——— ——— Supreme Court may order in certain cases (Hong-Kong) . 247
——— wife beating, punishment for (Delaware 211
——— wife and children, neglect to maintain (Victoria) 279
——— youthful offenders (United Kingdom) 218
Crown : civil list (British Empire) 213–215
——— claims of, summary execution to recover (British Guiana) . . 345–346
——— demise of (Barbados) 342
——— ——— (British Columbia) 324
——— ——— (British Empire) 215
——— ——— (Introduction to Review of Legislation) 176
——— ——— (Malta) 359–360
——— ——— (New Brunswick) 328
——— ——— (New South Wales) 262

PAGE
Crown: demise of (South Australia) 272
——— lands: Blockholders Act (New South Wales) 265
——— ——— coal mines on, working of (New Zealand) 295
——— ——— exchange of leases for perpetual leases (South Australia) . 273
——— ——— foreshore, leases of (Hong-Kong) 248
——— ——— management of (New South Wales) 266
——— ——— mining rights of (Province of Quebec) 335
——— ——— mines, search for, on (British Guiana) 344
——— ——— pastoral lands (South Australia) 273
——— ——— ——— leases (Queensland) 269
——— ——— records of pre-emption (British Columbia) 325
——— ——— sale of (Queensland) 270
——— ——— sporting rights over (Mauritius) 245
——— ——— timber, minerals, etc. (Newfoundland) 339
——— ——— vesting in board of management (New South Wales) . . 266
——— ——— working men, leasing to, in blocks (New South Wales) . 265
——— Royal Titles Act (British Empire) 215
Cruelty to animals (Queensland) 270
Currency: gold coin (Ceylon) 241
Customs. *And see* Revenue.
——— amendment (Newfoundland) 340
——— appointment of officers (Queensland) 268
——— general regulation of (Commonwealth of Australia) . . . 252–255
——— goods imported from other Australian States (Western Australia) . 285
——— spirits and tobacco, permit for carrying (Montserrat) 356
——— suspension of duties (Falkland Islands) 321
——— tariff (Antigua) 356
——— ——— (Barbados) 341–342
——— ——— (Sierra Leone) 313

Dairy: produce, brands for (Manitoba) 327
——— encouragement (Queensland) 270
Dangerous goods: calcium carbide (evolving acetylene) (Jamaica) . . . 347
——— explosives (British Columbia) 324–325
——— matches (Jamaica). *And see* Explosives 347–348
Death penalty, restoration of (Colorado) 211
Deaths: registration of (Lagos) 311
——— ——— (Southern Nigeria) 317
——— ——— of non-natives (Northern Nigeria) 320
Debts, attachment of (British Columbia) 323–324
Deck cargoes (Dominion of Canada) 322
Defaced coin (Orange River Colony) 308
——— (Transvaal) 306
Defamation, criminal law (New Zealand). *See* Libel 296
Defence, Imperial, contribution to (Hong-Kong) 246
——— sketching and photographing, prohibition of (Gibraltar) . . . 359
Definition of terms (Ceylon) 241
Demise of Crown. *See* Crown, demise of.
Denmark, legislation of 182–183
Dentist, qualifications to practise, regulations as to (Virgin Islands) . . . 358
——— supervision of practice (Malta) 360

PAGE

Dingoes (wild dogs) (Queensland) 270
——— destruction of (Victoria) 279–280
Disaffection, creating, against Government, an offence (Fiji) 290
Distress for rent, exemption of bedding, tools, etc. (Trinidad and Tobago) . 352
Divorce: incurable insanity not a ground for (North Dakota) 209
——— remarriage after, time for (Minnesota) 209
——— ——— ——— (North Dakota) 209
——— ——— ——— (Wisconsin) 209
——— residence for (Wyoming) 209
Documents, authentication of (Basutoland) 305
Dogs, registration of (Ceylon) 242
——— wild (Queensland) 270
——— ——— (Victoria) 279–280
——— ——— destruction of (Province of Quebec) 336
Drainage, incidence of costs of (Province of Ontario). 333
Dramatic compositions, copyright in (Germany) 190
Drill in schools (New Zealand) 291
Drugs and poisons, sale of (Lagos) 311–312

EARLY closing, shops, of (South Australia) 275
——— ——— (Western Australia). *See* Shops. 288
East Indian settlement, management of (British Guiana) 346
Ecclesiastical law. *See* Church and Clergy.
Education: amendment (Newfoundland) 340
——— ——— (Victoria) 284
——— Bible, a daily class-book (Turk's and Caicos Islands) . . . 350
——— blind and deaf children, duty of parents (New Zealand) . . . 296
——— Board of Education (Bahamas) 341
——— ——— ——— (Turk's and Caicos Islands) 350
——— boarding out children (Jamaica) 348
——— boards, election (New Zealand) 292
——— educational and charitable institutions (British New Guinea) . 289–290
——— expenses of non-elementary (England) 219–220
——— factories and workshops (United Kingdom) 221–226
——— rate payable (Trinidad and Tobago) 351
——— ——— (Turk's and Caicos Islands) 350
——— schools, attendance of children (New Zealand) 296
——— ——— children attending to satisfy head-teacher they have been vaccinated (New Brunswick) 328
——— ——— high schools (Province of Ontario) 334
——— ——— industrial (Jamaica) 348
——— ——— physical drill to be provided (New Zealand) . . . 291
——— ——— public schools (Province of Ontario) 334
——— ——— reformatory (Hong-Kong) 247–248
——— ——— salaries of teachers (New Zealand) 293
——— ——— truant schools (New Zealand) 296
——— ——— tuberculous teachers in, prohibited (New Mexico) . . 212
——— Scotland, in (Scotland) 220–221
——— teachers, pensions for (Barbados) 342
——— ——— tuberculous (New Mexico) 212
——— University of Toronto (Province of Ontario) 334

PAGE
Egypt, decrees of 183–185
Elections: corrupt practices at (Western Australia) 287
——— election petitions, trial of (Newfoundland) 340
——— Franchise Act, amendment of (Dominion of Canada) . . . 322
——— Legislative Council, to (Mashonaland and Matabeleland) . . . 305
——— Parliamentary (Manitoba) 327
——— ——— (Tasmania) 278
——— voters, entry of claim (Province of Ontario) 329
——— voters in quarantine (South Australia) 272
——— voting, exclusion of Indians (British Columbia) 324
Emigration: Chinese, examination (Hong-Kong) 249
——— coolie labour (British India) 235
Employers' liability. *See* Master and Servant.
Employment: accidents, prevention of (Italy) 203
——— coolie labour in Assam (British India) 235
——— employers' liability (Victoria) 289
——— ——— ——— (Western Australia). *See* Master and Servant . 284
——— factories, in (New Zealand) 297
——— ——— (United Kingdom) 224
——— holidays (Italy) 203
——— home-work in factories (United Kingdom) 225
——— hours of (New Zealand) 297
——— housing of workmen (Italy) 203
——— industrial arbitration (New South Wales) 262–263
——— ——— ——— (New Zealand) 291
——— ——— ——— (Western Australia) 287–288
——— injuries to workers, compensation (Western Australia) . . . 286
——— labour bureaus (United States) 210
——— labour legislation (Introduction to Review of Legislation) . . . 181
——— labour office, institution of (Italy) 203
——— labour union, discharging employee for joining (Illinois) . . . 210
——— miners, of, underground (New Zealand) 298
——— mines, in (New South Wales) 266–267
——— national insurance office against accidents (Sweden) 205
——— national savings bank for workmen 203
——— native labour touting (Natal) 303
——— school, attendance of factory child at (United Kingdom) . . . 224
——— shops, in (Western Australia) 288–289
——— ——— half-holiday, chemists' assistants (New Zealand) . . 292
——— trade disputes, jurisdiction of trade tribunals over (Germany) . 191–192
——— trade unions (Western Australia) 287
——— wages for boys and girls, minimum (New Zealand) 297
——— women and children, of (Italy) 223
Equity, fusion of, and law (Hong-Kong) 247
Estates, administration of. *See* Administration of Estates.
Evidence: authentication of documents (Basutoland) 305
——— code of (Turk's and Caicos Islands) 349–350
——— execution of documents, authentication of (Basutoland) . . . 305
——— ——— ——— ——— ——— (Natal) 301
——— proclamations, judicial notice of (New Brunswick) 328
——— State laws and records (Commonwealth of Australia) . . . 251

PAGE

Evidence: witnesses, attendance before Royal Commission (Western Australia) 289
——— ——— revenue and liquor law proceedings, examination of, on (New Zealand) 292
Excise. *See* Revenue.
Execution: attachment of debts (British Columbia) 323
——— capital sentences, of, to be in private (North Carolina) . . . 211
——— process of civil (Commonwealth of Australia) 254–255
——— rape, for, to be in public (Arkansas) 211
Executor: registration of unpaid shares in name of transferee, immunity (Victoria) 284
Explosives: inflammable oils (Newfoundland) 340
——— manufacture and sale of gunpowder (Hong-Kong) 248
——— powder magazines (British Columbia) 324–325
Exports: Angora rams, duty on (Natal) 299
——— gold, of, restrictions on (Transvaal) 305
——— inspection of (Tasmania) 278
——— ——— flax (New Zealand) 298

Factories: boys and girls in (New Zealand) 297
——— consolidation of law of, and workshops (United Kingdom). . . 221
——— dangerous and unhealthy industries (United Kingdom) . . 223–224
——— education (United Kingdom) 224
——— employment (United Kingdom) 224
——— "factory," definition of (New Zealand) 297
——— fire escapes, provision of (Province of Ontario) 333
——— health (United Kingdom) 223
——— ——— (Province of Ontario) 333
——— ——— (Province of Quebec) 337
——— home work (United Kingdom) 225
——— hours of work (New Zealand) 297
——— inspection of (United Kingdom) 225
——— legal proceedings for offence against Act (United Kingdom) . . 226
——— machinery, fencing (United Kingdom) 223
——— work and wages, particulars of (United Kingdom) 225
Family name, assumption of (Sweden) 206
Fertilisers and feeding stuffs (Jamaica) 348
Finance: Act (United Kingdom) 231–232
——— loan by Treasury bills (Queensland) 268
Fire insurance. *See* Insurance, Fire.
Firearms: children under thirteen not to be in possession of (Tasmania) . 278
——— native chief, licence to keep (Natal) 303
——— prohibition against keeping, licence (Cyprus) 359
——— sale of, licence (Ceylon) 241
Fires, bush: precautions against (Antigua) 356
——— ——— ——— (Western Australia) 287
——— lighting in field of canes, penalty (Barbados) 342
Fisheries: board (British Columbia) 325
——— bonus on canned and cured fish (New Zealand) 292
——— Crown lands, appertaining to (Province of Ontario) 334
——— oyster, regulation of (Natal) 299

PAGE
Fisheries: protection of fish (St. Vincent) 355
——— regulation of (Jersey) 234
Flax grading (New Zealand) 298
Flogging: sanction of Governor (St. Lucia) 354
——— Supreme Court may order in certain cases (Hong-Kong) . . . 247
Food and drugs, adulteration (Natal) 302–303
Foreign companies (Italy) 198
——— insurance companies (Germany) 194
——— religious orders, exclusion of (Jersey) 234
Foreshore: leases of (Hong-Kong) 248
——— sea bed and (Straits Settlements) 242–243
Forests (Northern Nigeria) 318
Forfeiture of leases, relief (New South Wales) 265
Foxes, close time for (Newfoundland) 340
France, legislation of 185–187
French treaties (Newfoundland) 339
Friendly societies: registration (New South Wales) 266
Frontier district, regulation of (British India) 239
——— Force, West African (Gold Coast) 310
——— ——— ——— (Sierra Leone) 314
——— ——— ——— (Southern Nigeria) 316
——— murderous outrages (British India) 240
Fruit, packing and sale of (Dominion of Canada) 322
Fugitive offenders (Orange River Colony) 308
——— ——— (South Africa) 304–305
——— ——— (Transvaal) 306

GAME: licence to shoot (St. Christopher and Nevis) 358
——— regulations as to (Province of Quebec) 336
Gaming: automatic or penny-in-the-slot machines (United States) . . . 209
——— betting-houses, suppression of (Transvaal) 307
——— —— prohibition of, by promoter of sports by advertisement (Victoria) 284
——— billiard rooms, minors not to frequent (Minnesota) 209
——— card-playing at other than private residences (Texas) . . . 209
——— inspection of gaming places by sheriff (New Mexico) . . . 209
——— lotteries, prohibition of (Bahamas) 341
——— raffles at charitable bazaars, legalising (Dominion of Canada) . . 322
——— renting premises for (Arkansas) 209
——— wagering contract in stocks or commodities (Massachusetts) . . 209
Gaols. *See* Prisons.
General Assembly (Egypt) 183
Germany, legislation of 187–194
Gifts for public purposes exempt from death duties (New Zealand) . . . 291
Gold buying, licence (Victoria) 284–285
—— exportation of (Transvaal) 305
—— fields, rating for public improvements (New Zealand) 293
Goods, importation of "folded woven goods" (Northern Nigeria) . . . 319
Government, organisation of departments (Province of Quebec) . . 335–336
Governor: salary of (Victoria) 279
Gunpowder: manufacture and sale of (Hong-Kong). *See* Explosives . . 248

PAGE

HAND-IN-HAND Fire Insurance Company (British Guiana) 346
Harbour. *See* Ports and Harbours.
Health (Public): adulteration of food and drugs (Natal) 302–303
——— ——— of wine (Italy) 203
——— authority, Governor-in-Council to be sanitary (St. Vincent) . 354–355
——— bakeshops, sanitation of (British Columbia) 326
——— barbers' shops, regulation of (United States) 212
——— ——— ——— supervision of (Malta) 360
——— board of health, constitution of (Natal) 302
——— ——— ——— ——— (Province of Quebec) . . . 336–338
——— ——— ——— ——— (Transvaal) 306
——— bubonic plague (Western Australia) 288
——— consolidation of law as to (Hong-Kong) 247
——— contagion, prevention of communication (Kansas, Montana, New Hampshire) 211–212
——— corpses, infectious, embalming of (United States) 212
——— drainage (Province of Ontario) 333
——— epidemics (Natal) 302
——— ——— (Province of Quebec) 337
——— extra municipal districts, sanitation in (Province of Ontario) . . 333
——— factories, in (New Zealand) 297–298
——— ——— (Province of Ontario) 333
——— ——— (United Kingdom) 223–224
——— hospitals, consumption, distance from dwelling-house (Province of Ontario) 331
——— ——— improvements in (British Columbia) 326
——— ——— isolation (England) 230
——— ——— provision of (Natal) 302
——— infection, prevention of communication (Kansas, Montana, New Hampshire) 211–212
——— infectious materials (New Zealand) 298
——— isolation hospitals (England) 230
——— lepers, asylums for, and regulations (Ceylon) 240–241
——— ——— ——— (Trinidad and Tobago) 352
——— ——— detention in asylum (Straits Settlements) 244
——— medical officers, powers of (Province of Ontario) 331
——— medicine, practice, supervision of (Malta) 360
——— midwives, licences for (Malta) 360
——— milk dealers (Vermont) 212
——— notice on door of infectious or contagious disease (North-West Territories) 328–329
——— nurses, registration of qualified (New Zealand) 291
——— physical education, drill (New Zealand) 291
——— quarantine (British India) 236
——— ——— (Mauritius) 246
——— ——— (New Zealand) 298
——— schools, tuberculous teachers in, prohibited (New Mexico) . . 212
——— shearers' accommodation (New South Wales) 266
——— shops, in (Province of Ontario) 334
——— smoking by minors under sixteen prohibited (Prince Edward Island). *See* Smoking 335

PAGE
Health : trades, supervision of certain (Malta) 360
——— vaccination, children entering a public school, to prove (New Brunswick) 328
——— ——— compulsory, of natives in labour districts (Transvaal) . . 306
——— ——— conscientious objection (New Zealand) 298
——— ——— ——— ——— (South Australia) 275
——— ——— returns of births for purposes of (Virgin Islands) . . 358
Highways : closing where dangerous (Montserrat) 357
——— improvements (Province of Ontario) 333
——— intermunicipal roads (British Columbia) 326
——— overseers (Prince Edward Island) 335
——— repairs to (Province of Ontario) 332
——— road boards (Natal) 301
——— tolls on (Province of Ontario) 333
——— way wardens, appointment of (St. Vincent) 355
Holidays. *See* Public Holidays.
Homesteads, agricultural (Queensland) 269–270
Hospitals : consumption, distance from dwelling house (Province of Ontaria) . 331
——— improvements in (British Columbia) 326
——— isolation (England) 230
——— provision of (Natal) 302
"House" : definition of (Southern Nigeria) 318
——— tax (St. Christopher and Nevis) 357
Human Leopard Society (Sierra Leone) 315
Husband and wife : deserted wife, maintenance of (British Columbia) . . 324
——— ——— desertion of wife or neglect to maintain (Victoria) . . 279
——— ——— divorce. *See* Divorce.
——— ——— marriage. *See* Marriage.
——— ——— married women, property (Bermuda) 343
——— ——— wife beating, punishment for (Delaware) 211

Illegitimate children : maintenance of (Victoria) 279
——— ——— succession and descent of (United States) 210
Immigration : Chinese (New Zealand) 291
——— fund (Trinidad and Tobago) 351
——— Indian, provisions as to, extended to Zululand (Natal) . . . 299
——— (Introduction to Review of Legislation) 177
——— restriction on (Commonwealth of Australia) 259–261
——— Pacific Island labourers (Commonwealth of Australia) . . 258–259
Imperial loans, priority (Trinidad and Tobago) 351
Income tax (Victoria). *See* Taxation 284
Incorporation of towns in territorial districts (Province of Ontario) . . . 333
Indecent assaults (Hong-Kong) 246–247
Indemnity Act (Natal) 301–302
Indeterminate sentences (United States) 212
Indians, exclusion of, from register of voters (British Columbia) . . . 324
Industrial arbitration (New South Wales) 262–263
——— conciliation and arbitration (New Zealand) 293
——— ——— ——— ——— (Western Australia) . . . 287–288
——— law (Italy) 195
——— schools (Jamaica) 348

PAGE

Infants *And see* Children :
——— billiard rooms, not to frequent (Minnesota) 209
——— firearms, not to be in possession of, where under thirteen (Tasmania) 278
——— life insurance by (Queensland) 269
——— tobacco, sale of, to (Bermuda) 343
——— ——— ——— (Prince Edward Island) 335
——— trading by (Italy) 195
Inflammable oils, keeping of (Newfoundland) 340
Inquests, holding of, by magistrates (Orange River Colony) 309
——— ——— ——— ——— (Transvaal) 305–306
Inquiry, commissions of (Northern Nigeria) 319
——— Courts of (British Empire) 217
Insolvency, law of (Orange River Colony) 308
Insurance : accidents to workmen, national office (Sweden) 205
——— contracts (Italy) 200–201
——— fire, Hand-in-Hand Insurance Company (British Guiana) . . . 346
——— life companies, amendment (Newfoundland) 340
——— ——— minors, by (Queensland) 269
——— ——— regulation of (Queensland) 269
——— ——— supervision of private (Germany) 193
——— "unearned premiums" (Province of Ontario) 332
Interdicts, jurisdiction to grant (Orange River Colony, Transvaal) . . . 304
Interpretation (Commonwealth of Australia) 250–251
——— terms of (Ceylon) 241
Intoxicating drugs, opium, importation of (New Zealand) 292
——— ——— regulation of traffic in (British India) 237
——— liquors : brewing only to be carried on in established breweries (Orange River Colony) 309
——— ——— excise duty on (Natal) 300
——— ——— licences (Jersey) 234
——— ——— ——— (Turk's and Caicos Islands) 349
——— ——— ——— brewers' colonial ale licences (South Australia) . 275
——— ——— ——— clubs, for (Natal) 300–301
——— ——— ——— fee for (Montserrat) 356–357
——— ——— ——— "high licence" (United States) 210
——— ——— ——— limitation of (New Jersey) 210
——— ——— ——— publicans and billiard (Falkland Islands) . . 321
——— ——— prohibition, *bona fide* transactions (Prince Edward Island) . 335
——— ——— sale of, children, to (United Kingdom) 226–227
——— ——— ——— coloured persons, to, prohibited (Transvaal) . 307
——— ——— ——— hours for (Province of Quebec) 336
——— ——— ——— local option (United States) . . . 209–210
——— ——— ——— minor remaining in place where intoxicating liquors sold, a misdemeanour (Utah) . . 210
——— ——— ——— regulating (Natal) 300–301
——— ——— ——— ——— (Newfoundland) 340
——— ——— ——— ——— (St. Christopher and Nevis) . . . 357
——— ——— ——— ——— (United States) 209–210
——— ——— ——— ——— (Western Australia) 289
——— ——— ——— wine (Germany) 187
Introduction to Review of Legislation 276

PAGE

Irrigation: sowing of maize during low Nile (Egypt) 184
——— sudden danger, summoning inhabitants (Cyprus) 359
——— works (Ceylon) 241
Isle of Man, summary of recent legislation in 233
Italy, legislation of 195-203

JUDICATURE: additional judge (Western Australia) 287
——— administration, estates, of. *See* Administration of Estates.
——— ——— justice, of (British Honduras) 346
——— ——— ——— (Falkland Islands) 320-321
——— appeals (Ceylon) 242
——— ——— (Egypt) 185
——— ——— (Natal) 301
——— ——— (Province of Ontario) 330
——— clerks, appointment of (Newfoundland) 340
——— commissioners, issue of judicial warrants to (Southern Nigeria) . 317
——— conflict of jurisdiction (Egypt) 183
——— criminal procedure (Trinidad and Tobago) 352
——— defendant about to quit colony (British Guiana) 346
——— definition of terms (Ceylon) 241-242
——— District Court judges, salaries of (Newfoundland) 340
——— enquiry, commissions of (Northern Nigeria) 319
——— foreigners, jurisdiction over (British Guiana) 346
——— fusion of law and equity (Hong-Kong) 247
——— imprisonment (Egypt) 184
——— interdicts (Transvaal, Orange River Colony) 304
——— jury, majority verdict (Colorado, Missouri) 211
——— juries (Denmark) 183
——— magistrates (Natal) 301
——— ——— Courts (Orange River Colony) 304
——— ——— ——— (Transvaal) 304
——— ——— resident (Orange River Colony) 308
——— native Courts (Southern Nigeria) 317-318
——— oaths, affirmation in lieu of (British Honduras) 347
——— ——— form of (Newfoundland) 340
——— outlawry in civil proceedings (Hong-Kong) 247
——— petty civil Courts, procedure in (Trinidad and Tobago) . . . 352
——— police magistrates in Yukon Territory (Dominion of Canada) . . 322
——— procedure (New South Wales) 262
——— ——— of Law Courts (Sweden) 204
——— quarter sessions, abolition of (Newfoundland) 339
——— salary of Chief Justice, reduction (Queensland) 267
——— ——— District Court judges (Newfoundland) 340
——— ——— judges of Provincial Courts (Dominion of Canada) . . 322
——— service by registered letter (North Dakota) 211
——— ——— of writ of summons (Ceylon) 244
——— summary jurisdiction (Province of Ontario) 331
——— ——— ——— (Trinidad and Tobago) 352
——— Supreme Court (Ceylon) 242
——— ——— ——— (Natal) 300
——— telegraph, transmitting summons, writ, or order by (Wyoming) . . 211

PAGE

Judicature: trial by jury (Falkland Islands) 321
——— ——— (Trinidad and Tobago) 351–353
——— trial without jury (Gambia) 310
——— ——— ——— speedy (Bermuda) 343–344
Jurors, selection of, by magistrates (Bermuda) 344
Jury, consolidation of law as to trials by (Trinidad and Tobago) . . 351–352
——— three-fourths majority verdict (Colorado, Missouri) 211
——— trial by (Falkland Islands) 321
——— trial without (Gambia) 310
——— ——— speedy (Bermuda) 343
Justice, administration of. *See* Judicature.

KHEDIVIAL family (Egypt) 185

LABOUR. *See* Employment.
Land: agricultural, purchase of (Queensland) 270
——— acquisition of, for military purposes (Sierra Leone) 314
——— ——— for public purposes (Commonwealth of Australia) . 256–257
——— ——— ——— (Gambia) 310
——— ——— for settlement (Tasmania) 278
——— alienation and concessions by ex-Government, avoidance of (Transvaal) 306–308
——— bank (Queensland) 267
——— Consolidation Act (Victoria) 280
——— conveyancing amendment (New South Wales) 265
——— Court, New Territories (Hong-Kong) 248
——— Crown, of. *See* Crown Lands.
——— customary Malay tenure (Ceylon) 243–244
——— dual ownership of (North-Western Provinces and Oudh) . . . 238
——— grants of, to volunteers (Province of Ontario) 329
——— improvement (Straits Settlements) 243
——— Malacca customary lands transfer (Straits Settlements) . . . 243
——— Maori, alienation of (New Zealand) 293–294
——— military purposes, acquisition for (Sierra Leone) 314
——— mortgages of, statutory form for (New Zealand) 291
——— native (New Zealand) 294
——— occupancy rights (British India) 238
——— possession of, recovery of (Tasmania) 277–278
——— registration (Northern Nigeria) 317, 319–320
——— regulation (Victoria) 30
——— revenue (Bombay) 237
——— ——— (Burma) 239
——— ——— (North-Western Provinces and Oudh) 238
——— Rhodes Trust (New Zealand) 290
——— settlement, aid to (New Zealand) 293
——— tax (St. Christopher and Nevis) 357
——— tenure and revenue (Bombay) 237
——— titles, cancellation of fraudulent entries (Province of Ontario) . . 331
——— valuation of (Jamaica) 349
Landlord and tenant: covenants to pay taxes on assessment for local improvements (Province of Ontario) 331

PAGE
Landlord and tenant: distress for rent, exemption of bedding, tools, etc. (Trinidad and Tobago) 352
——— ——— lease, relief against forfeiture (New South Wales) . . 295
——— ——— recovery of possession of tenements (Tasmania). . . 277
Larceny (England and Ireland) 218
——— (Introduction to Review of Legislation) 178
——— prædial (Jamaica) 349
Laundries: exemption of certain, from Factories and Workshops Act (United Kingdom) 222
Leases: forfeiture, relief against (New South Wales) 265
——— pastoral, of Crown lands (Queensland) 269–270
——— recovery of possession of premises (Tasmania) 277
Lectures, copyright in (Germany) 189
Legal practitioner, recovery of costs (British Guiana) 345
Legislation: initiative (United States) 207
——— Introduction to Review of 176–181
——— referendum (United States) 207
——— restriction of, in United States (United States) 207–208
Legislative Council, election of (Mashonaland and Matabeleland) . . . 305
——— ——— ——— (South Australia). *See* Elections . . . 272
Lepers: asylums for, and regulations (Ceylon) 240–241
——— ——— ——— ——— (Trinidad and Tobago) 352
——— detention in asylum (Straits Settlements) 244
Libel: amendment of law, and slander (Hong-Kong) 247
——— defamatory, criminal law (New Zealand) 296
——— library, libellous matter in book kept in public (England and Ireland) 227
——— notice of action, correction of article (North Carolina) . . . 211
——— one action only bringable in same county (Pennsylvania) . . . 211
Libraries: libellous matter in book kept in (England and Ireland) . . . 227
Licence: liquor. *See* Intoxicating Liquors.
——— pearls and mother-of-pearl shell, for sale of (South Australia) . 275–276
——— produce dealers, for (Jamaica) 348
Licensed victuallers, "brewers' colonial ale licences" (South Australia) . . 275
Lien, mechanics' and wage-earners' (Province of Ontario) 331
Life insurance: companies (Newfoundland) 340
——— ——— foreign (Germany) 194
——— ——— regulation of (Queensland) 269
——— ——— supervision of private (Germany) 193–194
——— minors, by (Queensland) 269
——— "unearned premiums" (Province of Ontario) 332
Light and air: acquisition of right to (Western Australia) 289
Limitation of actions (Province of Ontario) 330
——— ——— commercial matters, in (Italy) 202
Liquors. *See* Intoxicating Liquors.
Loans for public works. *See* Public Works.
Local government: expenses of Royal visit (New Zealand) 298
——— ——— ——— ——— (Queensland) 271
——— ——— ——— ——— (South Australia) 276
——— ——— loans for public works (New Zealand) 293
——— ——— municipality of Johannesburg (Transvaal) 304
——— ——— parochial boards (Jamaica) 348

PAGE

Local government: rates, interest on unpaid (Queensland) 270
——— ——— town councils (Gold Coast) 310
——— ——— town government (Grenada) 353
——— ——— wardens of districts, appointment of (St. Vincent) . . 355
Local option (Jersey) 234
——— (United States) 209–210
Locusts (Natal) 299
London Missionary Society (British Guiana) 345
Lotteries, prohibition of (Bahamas) 341
Lynching, vacating office of sheriff (Indiana) 210

MACHINERY, certification of persons in charge of (New Zealand) . . . 292
Magistrates. *See* Judicature.
Maori antiquities, purchase of (New Zealand) 291
——— lands, alienation (New Zealand) 293–294
Marine Court of Enquiry (Newfoundland) 339
Marriage: first cousins, between (Pennsylvania) 209
——— insanity and epilepsy as impediments to (Louisiana) 209
——— maintenance of wife and children (Victoria) 279
——— registry of (Southern Nigeria) 317
——— special licences for, and solemnisation (Transvaal) 305
——— written contract (New York) 209
Married women. *See* Husband and Wife.
Marsupials (Queensland) 270
Master and servant: common employment, doctrine of (Colorado) . . . 210
——— ——— compensation for injuries (Western Australia) . . . 286
——— ——— employers' liability (Victoria) 284
——— ——— servant with wages advanced leaving employment (Province of Ontario) 330
Matches, duty on (Jamaica) 347–348
Maternity boarding house (British Columbia) 325
Meat, production of, encouragement (Queensland) 270
Medicine: misconduct of subordinates in Civil Medical Department (Hong-Kong) 247
——— practice of, and surgery (Jersey) 234
——— qualification of practitioners, regulations as to (Virgin Islands) . . 358
——— supervision of practice of (Malta) 360
Merchandise Marks Acts, folded woven goods (Northern Nigeria) . . . 319
Merchant shipping: casualties, enquiries into (Dominion of Canada) . . 322
——— ——— deck cargoes of timber spars (Dominion of Canada) . . 322
——— ——— dues (Cyprus) 359
——— ——— masters and engineers, engagement of (Hong-Kong) . . 249
——— ——— unseaworthy ships, survey and detention of (Mauritius) . 245
——— ——— wrecks (St. Lucia) 354
Merchants, obligation to keep books (Italy) 195
——— who are (Italy) 195
Midwives, licences for (Malta) 360
Military pensions (Dominion of Canada) 322
——— ——— (New Zealand). *See* Army 296
——— purposes, acquisition of land for (Sierra Leone) 314
Militia (Malta) 359

PAGE
Militia and yeomanry (United Kingdom) 229
Milk dealers (Vermont) 212
Mines: accident relief (New South Wales) 266
——— actions relating to (Province of Ontario) 303–331
——— children in (New South Wales) 267
——— coal, certificate of competency for employees (British Columbia) 325–226
——— ——— inspection of (New Zealand) 295
——— ——— regulation of (Western Australia) 289
——— ——— state, working of (New Zealand) 295
——— concessions of, avoidance of (Transvaal) 306
——— contracts for mining rights (Orange River Colony) . . . 308–309
——— ——— ——— (Transvaal) 306
——— Crown lands, on (Province of Quebec) 335
——— development of, encouragement to landowners (British Guiana) 344–345
——— hours of employment underground (New Zealand) 298
——— inspection (New South Wales) 266–267
——— "mining drives" (Queensland) 271
——— private property, mining on (South Australia) 275
——— regulation (British India) 236
——— tramways, undermining (Queensland) 271
Minors: billiard rooms, not to frequent (Minnesota) 209
——— estates of (Orange River Colony) 308
——— firearms, not to be in possession of, under thirteen (Tasmania) . . 278
——— life insurance by (Queensland) 269
——— remaining in place where intoxicating liquors sold, a misdemeanour. *And see* Infant and Children 210
——— smoking by (Bermuda). *See* Smoking 343
Missionary Society, London (British Guiana) 345
Money-lenders (Introduction to Review of Legislation) 180
——— regulation of (New Zealand) 292
Mortgages: conservator of, duties of (Mauritius) 245
——— interest, exemption from (Transvaal) 306
——— recovery of principal, notice (Transvaal) 306
——— ships, of (Sweden) 204
——— statutory form for (New Zealand) 291
Mother-of-pearl shell (South Australia) 275–276
Municipality, government of (British India) 237
——— incorporation of towns in territorial districts (Province of Ontario) . 333
——— limits, extension of (Egypt) 183
——— regulation of (Johannesburg) 304
——— ——— (Province of Ontario) 332–333
——— ——— (Western Australia) 289
Murder societies (Sierra Leone) 314–315
Murderous Outrages Regulation (British India) 240
Musical compositions, copyright in (Germany) 190

NAME, assumption of new family (Sweden) 206
National Gallery, purchase of additional land (England) 230
Natives: chief, licence to keep gun (Natal) 303
——— concessions by (Gold Coast) 311
——— convicted, serving sentence (Lagos) 312

PAGE
Natives: councils (Lagos) 312
——— Courts (Southern Nigeria) 317
——— customary law (Northern Nigeria) 318
——— Home Rule (Northern Nigeria) 318
——— intoxicating liquors, sale of, to (Transvaal) 307
——— labour "touting" (Natal) 303
——— ——— ——— (Transvaal) 307
——— land (New Zealand) 298
——— ——— reserves (New Zealand) 294
——— lashes, penalty of, abolished (Transvaal) 307
——— law as to, amendment (Transvaal) 307
——— passes for (Natal) 303
——— succession to chief (Natal) 303
——— unmarried child or female, harbouring (Natal) 299
Naturalisation (Hong-Kong) 247
Naval works, expenditure on (British Empire) 230
Navigation, consolidation of Acts (New South Wales) 262
Negotiable instruments, bills of exchange, law as to (Italy) . . . 198–200
New Zealand ensign (New Zealand) 298–299
——— legislation, general observations on 290–291
Newspaper cuttings, copyright in (Germany) 189
Notaries, appointment of (Lagos) 312
Nurses, registration of qualified (New Zealand) 291

Oaths: affirmations in lieu of (British Honduras) 347
——— allegiance of (Orange River Colony) 304, 208
——— ——— (Transvaal) 304
——— form of (Newfoundland) 340
Old-age pensions: enquiry into circumstances of applicant (New Zealand) 295–296
——— ——— (Introduction to Review of Legislation) 179
——— ——— scheme (Victoria). 280–284
Opium, prohibition against importation of (New Zealand). 292
Ostriches (Natal) 299
Outlawry in civil proceedings (Hong-Kong) 247
Oyster fishing, regulation of (Natal) 299

Pacific Island labourers (Commonwealth of Australia) 258–259
Parks, public (New Brunswick) 328
Parliament: contracts between legislator and Government (North-West Territories) 328
——— election of members (Tasmania) 278
——— General Assembly (Egypt) 183
——— House of Assembly (South Australia) 271–272
——— membership, disqualification (Victoria) 279
——— payment of members (Dominion of Canada) 322
——— ——— ——— (New Zealand) 295
Parochial boards (Jamaica) 348
Parole and probation of prisoners (United States) 212
Partnership, incorporation (Gambia) 309
Passenger ships. *See* Shipping.

PAGE
Passengers, carriage of (Ceylon) 241
Pastoral leases (Queensland) 269
——— ——— (South Australia) 273
Patents (Southern Nigeria) 317
——— law of (Italy) 202
Pawnbrokers, pre-emption (Egypt) 185
Pearls and mother-of-pearl shell (South Australia) 275–276
Penal code. *See* Criminal Law.
Pensions, military (New Zealand) 296
——— old-age (New Zealand) 295–296
——— ——— (Victoria) 280–284
Plants, sale of diseased (Victoria) 284
Poisons, sale of, and drugs (Ceylon) 241
——— ——— ——— (Lagos) 311–312
——— ——— ——— (Malta) 360
——— ——— ——— (Turk's and Caicos Islands) 350
Police: appointment by magistrates (Province of Quebec) 336
——— assaults on (Jamaica) 347
——— force, constitution of (Barbados) 342
——— ——— establishment of (Transvaal) 304
——— military (Burma) 239
——— offences (New Zealand) 291
Ports and harbours: construction of harbour at Adelaide (South Australia) . 276
——— ——— jetties (St. Lucia) 353–354
Possession of demised premises, recovery of (Tasmania) 277
Post, regulation of (Commonwealth of Australia) 255–256
Prædial larceny (Jamaica) 349
Presbyterian Church of Australia (Tasmania) 276
——— ——— ——— (Western Australia) 285
Prescription, light and air, grant (Western Australia) 289
Prickly pear, eradication of (Queensland) 370
Prisoners, parole and probation of (United States) 212
Prisons: amending decree (Egypt) 185
——— commitment and keeping of prisoners (Western Australia) . . 286
——— directors of (United States) 212
Private ordinances (Sierra Leone) 316
Probate (Falkland Islands) 321
Procedure, civil (Gambia) 310
——— ——— (Hong-Kong) 247
——— ——— (Straits Settlements) 244
——— ——— (Sweden) 204
——— ——— (Trinidad and Tobago). *And see* Judicature . . . 352
——— criminal (Trinidad and Tobago) 352
Process, service and execution of (Commonwealth of Australia) . . 254–255
Proclamations (Orange River Colony) 308–309
——— (South Africa) 304–309
——— (Transvaal) 305–308
——— outlying territories (South Africa) 304
Produce dealers, licence (Jamaica) 348
Progressive measures and political parties (Denmark) 182
Promoters, company, law as to (Italy) 197

PAGE

Property: acquisition of, for public purposes (Commonwealth of Australia). *See* Land 256–258
——— aliens, of (Bermuda) 343
——— ——— (Newfoundland) 340
——— delivery of possession on affidavit before magistrate (Orange River Colony) . . 308
——— ——— ——— ——— ——— ——— (Transvaal) . . 305
Protectorate: administration of justice (Lagos) 312
——— government (Sierra Leone) 315–316
Public health. *See* Health.
——— holidays (Natal) 299
——— ——— (Transvaal) 306
——— ——— (Turk's and Caicos Islands) 350
——— ——— Bank holiday (Barbados) 342
——— ——— ——— (St. Lucia) 354
——— ——— Victoria Day (Bermuda) 343
——— ——— ——— (Dominion of Canada) 322
——— ——— ——— (St. Vincent) 355
——— loans for railways (British Columbia) 325
——— ——— ——— (Natal) 300
——— offences (New Zealand) 291
——— officer, security by (Grenada) 353
——— officials, protection of (Southern Nigeria) 317
——— parks (New Brunswick) 328
——— purposes: acquisition of land for (Commonwealth of Australia). 256–258
——— ——— gifts for, exempt from death duties (New Zealand) . . 291
——— service (Egypt) 185
——— ——— (Newfoundland) 340
——— ——— (Victoria) 284
——— vehicles, licensing of (Cyprus) 359
——— works: election of committee (New South Wales) 262
——— ——— loans for (British Columbia) 325
——— ——— ——— (Natal) 300
——— ——— ——— (New Zealand) 293
——— ——— ——— (Western Australia) 285
Publishers, protection of authors against (Germany) 187–188
Punishment of offences (Commonwealth of Australia) 258

Quarantine (British India) 236
——— (Mauritius) 246
——— (New Zealand) 298
Quarter sessions, abolition of (Newfoundland) 339

Rabbits, penalty for non-destruction of (New Zealand) 291
Raffles at charitable bazaars, legalising (Dominion of Canada) 322
Railways: construction and maintenance (British Columbia) 325
——— ——— ——— ——— (Natal) 300–301
——— ——— ——— ——— (Newfoundland) 339
——— ——— ——— ——— (Tasmania) 277
——— grants to (Province of Ontario) 332
——— servants, rates of pay (New Zealand) 294–295

PAGE

Railways: street, precautions (Province of Ontario) 332
——— subsidies, repayment (Province of Quebec) 335
Rams, exportation of Angora, duty on (Natal) 299
Rape, public execution for (Arkansas) 211
Rates: assessment of real property (Province of Ontario) . . . 333
——— charitable institutions, rating of (New Zealand) 292
——— interest on unpaid (Queensland) 270
——— mining privileges in gold districts made ratable (New Zealand). . 293
——— rating (Hong-Kong) 247
——— recovery of (Mauritius) 245
——— unoccupied houses (Jamaica) 347
Real property: conveyancing amendment (New South Wales) 265
——— valuation of (Jamaica). *See* Land 349
Recovery of possession of demised premises (Tasmania) 277
Reformatory schools (Hong-Kong) 247–248
Registrar-General, deputy, powers of (New South Wales) 265
Registration: births, deaths, and marriages, of (Grenada) 353
——— ——— ——— ——— (Lagos) 311
——— ——— ——— ——— (Province of Quebec) 338
——— ——— ——— ——— (Southern Nigeria) 317
——— deaths of non-natives (Northern Nigeria) 320
——— land. *See* Land.
Registry, fireproof fittings (Province of Ontario) 331
Religious institutions (British New Guinea) 289
——— orders, exclusion of foreign (Egypt) 185-187
——— ——— ——— ——— (Jersey) 234
Rent, distress for, exemptions (Trinidad and Tobago) 352
Repeal of laws of ex-Government (Transvaal) 307
Revenue: (British India) 237
——— (United Kingdom) 231
——— appropriation (British New Guinea) 289
——— ——— (Fiji) 290
——— ——— (Manitoba) 327
——— ——— (New Brunswick) 327
——— ——— (North-West Territories) 328
——— ——— (Prince Edward Island) 335
——— ——— (Queensland) 267
——— ——— (Tasmania) 278
——— ——— (Western Australia) 286
——— budget (Denmark) 182
——— ——— (Egypt) 183–184
——— ——— (France) 187
——— customs (Antigua) 356
——— ——— (Barbados) 341–342
——— ——— (British Guiana) 344
——— ——— (Commonwealth of Australia). *See* Customs . . 253–255
——— ——— (Falkland Islands) 321
——— ——— (Montserrat) 356
——— ——— (Newfoundland) 339–340
——— ——— (Queensland) 268
——— ——— (Sierra Leone) 313

PAGE

Revenue: customs (Western Australia) 285
——— excise (Commonwealth of Australia) 254
——— ——— (Cyprus) 359
——— ——— (Jamaica) 347
——— ——— (Queensland) 268
——— expenditure, excess (Western Australia) 286
——— income tax (Victoria). *See* Taxes.
——— stamp duty. *See* Stamp Duty.
——— succession duty (Province of Ontario) 329–330
Rinderpest (Orange River Colony) 308
Roads. *See* Highways.
Royal Commission, attendance of witnesses before (Western Australia) . . 289
——— Titles Act (British Empire). 215–216
——— visit expenses (New Zealand) 298
——— ——— ——— (Province of Ontario) 333
——— ——— ——— (Queensland) 371
——— ——— ——— (South Australia) 276

SALE of goods (Italy) 196
——— purchase by Court officials prohibited (British Guiana) . . . 346
Savings banks (Barbados) 342
——— (Dominica) 356
——— (Montserrat) 357
——— State (Tasmania) 277
——— workmen, for (Italy) 223
Scab, treatment of sheep for (Falkland Islands) 321
School. *See* Education.
Scottish law agents (Natal) 301
Sea-bed, foreshore and (Straits Settlements) 242–243
Security by public officer (Grenada) 353
Seed wheat, repayment of loan (South Australia) 275
Shares: registration by executor in name of transferee, immunity (Victoria) . 284
——— stamp duty on (Mauritius) 244
Sheep: brands, registration of (New South Wales) 262
——— diseases (New South Wales) 262
——— exportation of Angora rams or ewes (Natal) 299
——— scab, treatment of (Falkland Islands) 321
——— shearers' accommodation (New South Wales) 266
Sheriff: bloodhounds, may buy, to track offenders (Arksansas) . . . 211
——— impeachment of, where prisoner lynched (Alabama) 211
——— vacating office of ——— ——— (Indiana) 210
Shipping: casualties (Southern Nigeria) 316
——— ——— Marine Court of Enquiry (Newfoundland) 339
——— dues (Cyprus) 359
——— merchant. *See* Merchant Shipping.
——— mortgages of ships (Sweden) 204
——— navigation, consolidation of Acts (New South Wales). . . . 262
——— passenger vessels, inspection of (Turk's and Caicos Islands) . . 350
——— ——— ——— penalty for overcrowding (Bahamas) . . . 341
Shops: bakeshops, hours of employment in (Province of Ontario) . . . 334
——— ——— sanitation of (British Columbia) 326

PAGE

Shops: barbers' shops, Sunday labour prohibited (Province of Ontario) . . 334
——— ——— ——— supervision of (Malta) 360
——— early closing (South Australia) 275
——— ——— (Western Australia) 288–289
——— half-holiday, chemists' assistants (New Zealand) 292
——— sanitary accommodation in (Province of Ontario) 334
——— Sunday labour in (Province of Ontario) 334
"Sign," meaning of (Ceylon) 241–242
Sketching and photographing, prohibition of (Gibraltar) 359
Slander, amendment of law of (Hong-Kong) 247
Slavery, abolition of (Northern Nigeria 319
Smoking, minors, by, under sixteen, prohibited (Prince Edward Island) . . 335
——— ——— ——— ——— ——— (Bermuda) 343
——— ——— cigarettes, of (United States) 210
Solicitor, remunerated by salary (Province of Ontario) 330
Stamp duty: consolidation of law as to (Hong-Kong) 248
——— scale of (Queensland) 268
——— shares, on (Mauritius). 244
Stamps, trading, abolition of (Western Australia) 289
Standard time (New Brunswick) 328
State bank, valuations on advances by (South Australia) 273
——— savings bank (Tasmania) 277
Statute Law: amendment (Manitoba) 327
——— ——— (Province of Ontario) 330
——— consolidation (New South Wales) 262
——— repeal (Hong-Kong) 248
——— ——— laws of ex-Government (Transvaal) 307
——— revision (British India) 237
——— ——— (Ceylon) 241
——— ——— (Leeward Islands) 355
——— ——— (Manitoba) 327
——— ——— (Trinidad and Tobago) 351
Steam-boilers, inspection (British Columbia) 323
Stock Exchange: contracts (Italy) 202
——— ——— wagering in stocks and commodities, a misdemeanour (Massachusetts) 209
Subsidy, no municipality to grant, to attract rival trade (Province of Quebec) . 338
Succession: duty (Province of Ontario). *See* Revenue 329
——— powers of resident magistrate (Transvaal) 305
Sugar beet industry, grant towards (Province of Ontario) 330
Summary convictions (British Guiana) 345
——— ——— (Province of Ontario) 331
Superannuation of civil servants (Bermuda) 344
Supply (New Zealand) 291
——— (Western Australia) 285
Sunday labour (Province of Ontario) 334

Taxes: corporations, assessment of (British Columbia) 326
——— house tax (St. Christopher and Nevis) 357–358
——— income tax (Prince Edward Island) 335
——— ——— (Victoria) 284

PAGE

Taxes: land tax (St. Christopher and Nevis) 357–358
——— land under cane cultivation (British Guiana) 344
——— poll tax (British Columbia) 326
——— recovery of (Mauritius) 245
——— reform (Denmark) 183
Telegraphs: amendment of law (Natal) 299
——— construction of Pacific cable (British Empire) 232–233
——— regulation of (Commonwealth of Australia) 255–256
Tenancy: tenant holding over, recovery of possession (Tasmania) . . . 277
Timber, duties on exported (New Zealand) 298
Time, standard of (New Brunswick) 328
Title, land, to, cancellation of fraudulent entries (Province of Ontario) . . 331
Tobacco: prohibition of sale of, to minor (Bermuda) 343
——— ——— ——— ——— (Pennsylvania) 210
——— ——— ——— ——— (Prince Edward Island) . . . 335
——— treatment of, on licensed premises (British Guiana) 346
Town councils (Gold Coast). *See* Local Government 310
——— government (Grenada). *See* Local Government 353
Track-law (British India) 240
Trade: debts (Italy) 186
——— disputes. *See* Arbitration.
——— ——— jurisdiction over (Germany) 191–192
——— encouragement, wood pulp (British Columbia) 326
——— goods, "folded woven goods," importation of (Northern Nigeria) . 319
——— marks (Italy) 203
——— ——— (Lagos) 311
——— ——— (Southern Nigeria) 317
——— ——— (Sweden) 206
——— obligations, law governing (Italy) 196
——— ——— limitation of actions in (Italy) 202
——— tribunals (Germany) 191–192
——— unions (Western Australia) 287
Trades, supervision of certain (Malta) 360
Trading stamps, abolition of (Western Australia) 289
Tramways, construction of (Hong-Kong) 249
Translations, unauthorised (Germany) 189–190
Treaties, Newfoundland French (Newfoundland) 339
Trial by jury (Falkland Islands) 321
——— without jury, speedy (Bermuda) 343
Truant schools (New Zealand) 296
Trustees: investments by (Hong-Kong) 249
——— ——— (New Brunswick) 328
——— ——— (Province of Ontario) 331
——— ——— (St. Lucia) 354
——— ——— (Trinidad and Tobago) 352
——— new, appointment of (New Zealand) 292–293
——— official, constitution of (Hong-Kong) 247

Uniforms: wearing of, by person not belonging to army or navy, prohibited (Northern Nigeria) 320
United States of America, legislation of 206–212

PAGE

Usury, fine or imprisonment (Sweden) 205

VACCINATION: children entering a public school to prove (New Brunswick) . 328
——— compulsory, of natives in labour districts (Transvaal) . . . 306
——— conscientious objection (New Zealand) 298
——— ——— ——— (South Australia) 275
——— returns of births for purposes of (Virgin Islands) 358
Vehicles, licensing of public (Cyprus) 359
Victoria Day. *See* Public Holidays.
Village communities (Cyprus) 358–359
——— settlements (South Australia) 273–275
Volunteers: land grants to (Province of Ontario) 329
——— power to raise (Barbados) 342
——— South Africa (British Columbia) 326
Voters: exclusion of Indians (British Columbia) 324
——— in quarantine (South Australia). *See* Elections 272

WAGES: factories and workshops, in (New Zealand) 297
——— ——— ——— ——— (United Kingdom) 225
——— lien for (Province of Ontario) 331
"Wakfs" (Egypt) 185
War, Indemnity Act (Natal) 301–302
Water, waste of (Ceylon) 241
Weights and measures, examination of (Hong-Kong) 248
Whipping: not to be inflicted without sanction of Governor (St. Lucia) . . 354
——— Supreme Court may order, when (Hong-Kong) 247
Widows' and Orphans' Fund, closing (British Guiana) 345
Wild animals (Natal) 299
——— protection (Sierra Leone) 314
——— ——— (Southern Nigeria) 316
Wild birds, protection (North-West Territories) 329
——— ——— (St. Vincent) 355
Wild dogs or dingoes (Queensland) 270
——— ——— destruction of (Victoria) 279–280
Will: land, of (Jersey) 234
——— soldiers, of (Sierra Leone) 314
Wine: adulteration of (Italy) 203
——— sale of (Germany) 187
Witnesses: attendance before Royal Commission (Western Australia) . . 289
——— examination of, in revenue proceedings (New Zealand) . . . 292
Women: employment of, and children (Italy) 203
——— harbouring unmarried native woman or child (Natal). . . . 299
——— sexual crimes (United States) 211
Wood pulp, manufacture of (British Columbia) 326
Working men: compensation to, for injuries (Western Australia) . . . 286
——— ——— medical examination of (New Zealand) . . 291
——— industrial arbitration (New South Wales) 262–265
——— ——— legislation (Italy) 203
——— lease of Crown lands to, in blocks (New South Wales) . . 265–266
——— lien for wages (Province of Ontario) 331
Working hours: factories, in (New Zealand) 297

PAGE

Working hours: factories, in (United Kingdom) 225
——— ——— shops, in (Western Australia). *See* Employment . 288–289
Workshops and factories, consolidation of law (New Zealand) 297
——— ——— (United Kingdom) 221
Wrecks (St. Lucia) 354

Yeomanry (United Kingdom) 229
Youthful offenders (United Kingdom) 218
Yukon Territory (Dominion of Canada) 322

NOTES.

Mr. Chalmers on Codification.—In an address on Codification recently delivered by Mr. Chalmers before the American Bar Association he tells us how he went to work with his successful codifications of mercantile law. "The idea," he says, "was suggested to me by my experience of the working of the Indian codes, particularly the Indian Penal Code of 1860. I therefore set to work to frame a digest of the law on the lines of an Indian code, and published it as a text-book. The frame of an Indian code is as follows: First of all the general propositions are stated in section as in an ordinary statute. Qualifications which in an ordinary statute are inserted as provisoes are called and drafted as 'exceptions.' If the propositions involve any complication, they are followed by illustrations which are part and parcel of the Act itself. This is a peculiar feature of Indian legislation, which owes its origin to Lord Macaulay. It works well in India, where law has to be administered largely by judges and advocates who are not trained English lawyers. But I do not think it is a good precedent for legislation elsewhere, for it holds out almost irresistible temptations to loose thinking and loose drafting. When, as often happens, the draftsman comes across a proposition which it is difficult to formulate, he is apt to frame it in terms which are not accurate, and which have to be controlled and modified, instead of being merely explained by illustrations. But the illustrations can hardly be exhaustive, and then difficulties of interpretation arise in practice. For a preliminary digest, however, the Indian code form is a very convenient one. You see at a glance the tests and proofs of abstract propositions. When I had examined the English reported cases, and roughly digested them, I found what any student of the common law would expect. On some points, and not always on important points, there was a plethora of authority. On other points authority was wanting, or spoke with an uncertain voice. A good many propositions in the digest had to be qualified with a 'probably' or 'perhaps.' As Lord Macnaghten had pointed out in a recent case, the more obvious a proposition of law may be, the more difficult it is to find direct authority for it. It is not litigated, and it is assumed rather than stated in the reported judgments." To solve these doubts and to fill up these lacunae Mr. Chalmers had to have recourse to American decisions and to the Continental codes and text-writers. Here the essential unity of the law merchant in all countries

is a great aid to its codification. First principles, too, emerge more clearly from a comparison of other systems.

Present Trend of Opinion.—"I hardly know," he goes on, "the trend of opinion in the States, but in England I think you may say that mercantile opinion is in favour of codification, while legal opinion is rather against it. Perhaps, then, I may briefly examine the arguments for and against codification from the English point of view. The mercantile view is this: 'Law is made *by* lawyers, but not *for* lawyers; it is made for laymen, who have to regulate the conduct of their business in accordance with the rules laid down by the law.' A man of business, in effect, says to the lawyers: 'Leave me free to make my own contracts, but tell me plainly beforehand what you are going to do if I don't make a contract, or if I fail to express it intelligibly. If I know beforehand exactly what you lawyers are going to do in a given case, I can regulate my conduct accordingly. All I want to know is exactly where I am'; and to avoid litigation our great mercantile judges have always kept the mercantile position in view. The lawyer is thinking—first, of the interests of his own particular client; and, secondly, of the nice and exact application of precedents to the particular case he is arguing. The fact that a decision, equitable in itself, may introduce uncertainty and difficulty into thousands of other commercial transactions is a matter outside his purview, and with which he does not concern himself. The lawyer, too, is apt to forget that he sees mainly the pathology of business; its healthy physiological action is a matter outside his professional experience." Mr. Chalmers effectually explodes the common fallacy that codification petrifies the law or destroys its elasticity; he also points out that legislation as a means of making the law is both speedier and cheaper than litigation. The English law of negotiable instruments took about a hundred and fifty years to develop. Its main principles were worked out by about two thousand decisions, and, taking a moderate estimate, the taxed costs of this litigation must have cost the parties about two million dollars. Judge-made law has certainly great merits, but cheapness is not one of them.

Electricity and its Purveyors.—"We make of Nature's giant powers the slaves of human art." And electricity is one: but this giant is still only half-tamed. In a recent case in the Supreme Court of Canada (*Royal Electric Co.* v. *Hevé*) the wife of an hotel-keeper told him something was wrong with one of the incandescent electric lamps in the place. The husband, going to examine it, touched the lamp, and was struck dead by an electric shock. How the deadly current originated—whether it was from the wire being imperfectly insulated or from leakage caused by the dripping of rain or by contact with another company's "live" wire running close by—was involved in mystery; the experts were all at fault, but the Court held that it was a matter of indifference—legally speaking—how the current originated. The supplying company must be held responsible in damages under any circumstances. "They deal," said the Court, "in a commodity of a

recognised dangerous character, the control of which is a matter of technical knowledge and experience and entirely uncomprehended by the general public. When a company like the appellants', organised under the name of an electric company, hold themselves out to the public as dealers in and suppliers of that commodity for gain, and make contracts with private individuals for furnishing light or power over a system constructed and controlled by themselves, they are bound to deliver it in a form and under conditions of safety for the person and property for whose use the company charge and receive compensation, and they are also bound in the discharge of their part of the contract to a supervision and diligence proportionate to the peculiar character and danger of the commodity in which they deal." A similar liability has been recognised in a number of American cases: *McAdam* v. *Central Royal Electric Co.* (6 *Amer. Elect. Cas.* 348); *McLaughlin* v. *Louisville Electric Light Co.* (*ibid.*, 255); *Ennis* v. *Gray* (*New York Sup. Co.* [1895], 325); *Giraude* v. *Electric Improvement Co. of San Jose* (5 *Amer. Elect. Cas.* 318). The English common law goes further. Even *summa diligentia* does not satisfy it. The evoker of this terrible force must safeguard it at his peril. Now—since the Electric Lighting Acts of 1882 and 1888—he flashes his lightnings under the ægis of statutory authority; and the Acts nowhere define his liability, but on principle he cannot be bound to less care than is commensurate with the power he wields.

Legal Education in Germany.—Those who are interested in the larger aspects of legal education may read with profit the chapter in Dr. Paulsen's *Die Deutschen Universitäten* on legal education in Germany, and an article in Schmoller's *Jahrbuch für Gesetzgebung* by Heinrich Waentig on "Die Amerikanischen Law Schools und die Reform des Rechtsunterrechtes im Preussen." Dr. Paulsen explains the scientific basis of German legal training; and adverting to the substitution of the study of the Civil Code for the Pandects, he thinks the result will be to bring "die soziologische und sozialpolitische Betrachtung, gegenüber der rein formalistichen oder rein historichen, mehr in den Vordergrund." Herr Waentig's article contemplates much larger changes. It expresses admiration for the practical side of American law instruction—the so-called inductive method introduced in 1872 by Professor Langdell at the Harvard Law School. Some features of the German legal education are admirable. The student's knowledge need not be scrappy and disjointed. The best manuals, even for cramming purposes—such as Bender's *Juristiche Repetitorien und Examinatorien*—are excellent specimens of intelligent condensation. But the instruction is apt to be remote from actuality. The most enlightened modern law teachers, such as Ihering and Stammler, have shown their sense of this by compiling, for the use of their students, collections of cases.

Size of Statutes.—Our endeavours to bring about uniformity in the size of Colonial Statutes and Ordinances have not been fruitless. There is still,

however, much room for improvement. Mr. Albert Gray writes with respect to the size and shape of the Ordinances of Lagos: "The protest made in this Journal (N.S., No. VI. p. 592) so long ago as December, 1900, against the unmethodical manner in which the Ordinances of Lagos are issued has as yet had no effect. Of the fifteen Ordinances, five are on paper of foolscap shape, two different sizes and qualities of paper being used; and seven are on large octavo (three have not come to hand)."

French Translations of English Law Books.—Two distinguished professors of law, M. Paul Lebours-Pigonniere, of Rennes, and M. Levy-Ullmann, of Lille, have projected a very useful undertaking. They intend to publish a series of French translations of some of the chief English law books, to form part of a series entitled *Bibliothèque de Droit privé étrangère*, similar in plan to MM. Tze and Brucard's *Bibliothèque internationale de Droit Public*, published by Giard & Briere, of Paris. In a communication which we have received on the subject, one of the editors remarks: "The development of comparative legislation has reached a point at which it is no longer possible to be content with the reading of the Codes or texts of Statutes."

The Right of Pre-emption.—Professor Todaro da Gallia has sent us a copy of a supplement to his translation of the Montenegrin Civil Code. Originally adopted in 1888, the Code has been modified in some respects, and in "la seconda edizione del Codice generale dei Beni del Montenegro" is printed a translation of the additions or changes made in 1898. Very remarkable are the provisions as to the right of pre-emption of land. Every owner may sell his field or house, but subject to a right of pre-emption, in the first instance, by the members of his family to the sixth degree; next by the neighbouring proprietors settled in a *villagio* where the property is; then the inhabitants of that *villagio* who are not owners of adjacent lands; fourthly adjacent proprietors not settled in the *villagio*; and, lastly, all other members of the tribe not included in these classes. Should the seller try to evade the exercise of the right by naming an excessive price, the person entitled to the right of pre-emption may ask that any sale to his detriment be set aside as a nullity, and may acquire the property at its true price. Those who are privy to the fraud will be held liable in damages. A foreigner cannot, with rare exceptions, own landed property in Montenegro; if he is owner, he does not become entitled to this right of pre-emption, which by its very nature belongs only to Montenegrins. The whole chapter is instructive and interesting, as showing the bulwarks which must be erected if a primitive institution is to survive in modern society.

Remuneration of a Commissioner.—A nice point of constitutional law was lately decided in *Tucker* v. *The King* by the Exchequer Court of Canada on a demurrer to a petition of right. The suppliant, a barrister by profession, was appointed a Commissioner to investigate and report upon alleged improper conduct by an officer of the Crown. He conducted the enquiry,

and reported accordingly, and claimed remuneration for his services. The appointment was made under chap. 115 of the Revised Statutes, which authorised a Minister of the Crown to appoint an officer to investigate and report. No provision was made for payment of salary or remuneration. The facts are in some respects like those in *The Queen* v. *Doutre* (9 A.C. 745). The Court distinguished them on the ground that the right to remuneration depended not on employment as a barrister or advocate, but on appointment as a Commissioner. There might have been, it was said, a claim to remuneration if the appointment had not been made under the Statute. "But here the appointment was made under a Statute in which there is no provision for compensation for any service that might be rendered by the Commissioner." He must be taken to have relied upon the good faith and honour of the Crown.

Comparative Legislation in Italy.—We have received from Professor Todaro, of Palermo, an interesting paper on "Lo Stato degli Studii in Legislazione Comparata in Italia." Incidentally the author throws light on the progress which the study of comparative jurisprudence has made elsewhere, and he points out that in almost all the chief European universities chairs of comparative law, general or special, exist. In Italy power has been given to create chairs of comparative jurisprudence; and in the universities of Palermo and Turin such chairs exist. The professor prints a scheme which has been submitted to the Chamber of Deputies for the formation in connection with the Ministry of Justice of an office of comparative legislation. Its main business will be to follow the course of legislation in Italy and abroad, and to collect and co-ordinate the laws and codes of different scales. One serious duty is to be imposed on this office: it is to issue certificates as to the existence and contents of Italian and foreign laws. The certificate is to have "forza probante in giudizio," in the absence of proof to the contrary. The project has at least the merit of boldness.

BIBL.
LONDIN.
UNIV.

Printed by Hazell, Watson & Viney, Ld., London and Aylesbury.